

**INFORMATION TO OFFERORS OR QUOTERS
SECTION A - COVER SHEET**

*Form Approved
OMB No. 9000-0002
Expires Oct 31, 2001*

The public reporting burden for this collection of information is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (9000-0002), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person will be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE ADDRESS IN BLOCK 4 BELOW.

1. SOLICITATION NUMBER SP0600-03-R-0078	2. (X one) <input type="checkbox"/> a. INVITATION FOR BID (IFB) <input checked="" type="checkbox"/> b. REQUEST FOR PROPOSAL (RFP) <input type="checkbox"/> c. REQUEST FOR QUOTATION (RFQ)	3. DATE/TIME RESPONSE DUE May 12, 2003 3:00 PM (VA time)
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INSTRUCTIONS

NOTE: The provision entitled "Required Central Contractor Registration" applies to most solicitations.

1. If you are not submitting a response, complete the information in Blocks 9 through 11 and return to the issuing office in Block 4 unless a different return address is indicated in Block 7.
2. Offerors or quoters must include full, accurate, and complete information in their responses as required by this solicitation (including attachments). "Fill-ins" are provided on Standard Form 18, Standard Form 33, and other solicitation documents. Examine the entire solicitation carefully. The penalty for making false statements is prescribed in 18 U.S.C. 1001.
3. Offerors or quoters must plainly mark their responses with the Solicitation Number and the date and local time for bid opening or receipt of proposals that is in the solicitation document.
4. Information regarding the timeliness of response is addressed in the provision of this solicitation entitled either "Late Submissions, Modifications, and Withdrawals of Bids" or "Instructions to Offerors - Competitive Acquisition".

4. ISSUING OFFICE (Complete mailing address, including ZIP Code) Attn: Monica T. Fass/DESC-FPA/Room 2941 Defense Energy Support Center 8725 John J. Kingman Road, Suite 4950 Fort Belvoir, VA 22060-6222	5. ITEMS TO BE PURCHASED (Brief description) Services for the Operation, Maintenance and Security of the Government-owned facilities at Defense Fuel Support Point (DFSP), Charleston, SC. Performance Period: Noon, May 1, 2004 through Noon, May 1, 2009.
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6. PROCUREMENT INFORMATION (X and complete as applicable)	
<input type="checkbox"/> a. THIS PROCUREMENT IS UNRESTRICTED	
<input checked="" type="checkbox"/> b. THIS PROCUREMENT IS <u>100</u> % SET-ASIDE FOR SMALL BUSINESS. THE APPLICABLE NAICS CODE IS: <u>493190</u>	
<input type="checkbox"/> c. THIS PROCUREMENT IS _____ % SET-ASIDE FOR HUB ZONE CONCERNS. THE APPLICABLE NAICS CODE IS: _____	
<input type="checkbox"/> d. THIS PROCUREMENT IS RESTRICTED TO FIRMS ELIGIBLE UNDER SECTION 8(a) OF THE SMALL BUSINESS ACT.	

7. ADDITIONAL INFORMATION A. A pre-proposal conference will be conducted at DFSP Charleston, SC, on April 29, 2003 at 9:00 a.m. (see Clause L197). Please contact Monica Fass (703) 767-9326 or E-mail: Monica.Fass@dla.mil, not later than April 25, 2003 if you plan to attend and provide the following information: your name and title, company name and address, phone number, E-mail address and any question(s) or issues you wish addressed at the conference.

8. POINT OF CONTACT FOR INFORMATION	
a. NAME (Last, First, Middle Initial) FASS, MONICA T.	b. ADDRESS (Include Zip Code) Defense Energy Support Center Attn: DESC-FPA, Room 2941 8725 John J. Kingman Road, Suite 4950 Fort Belvoir, VA 22060-6222
c. TELEPHONE NUMBER (Include Area Code and Extension) 703-767-9326	d. E-MAIL ADDRESS Monica.Fass@dla.mil

9. REASONS FOR NO RESPONSE (X all that apply)	
<input type="checkbox"/> a. CANNOT COMPLY WITH SPECIFICATIONS	<input type="checkbox"/> d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
<input type="checkbox"/> b. UNABLE TO IDENTIFY THE ITEM(S)	<input type="checkbox"/> e. OTHER (Specify)
<input type="checkbox"/> c. CANNOT MEET DELIVERY REQUIREMENT	

10. MAILING LIST INFORMATION (X one) WE <input type="checkbox"/> DO <input type="checkbox"/> DO NOT DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE INVOLVED.
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11a. COMPANY NAME	b. ADDRESS (Include Zip Code)
c. ACTION OFFICER	
(1) TYPED OR PRINTED NAME (Last, First, Middle Initial)	(2) TITLE
(3) SIGNATURE	(4) DATE SIGNED (YYYYMMDD)

DD1707

B. Note that this is a 100% Small Business Set-Aside. In order to qualify as a small business concern, the offeror and affiliates must not exceed \$18.5 million in total annual receipts. The NAICS code is 493190 (see Clause K1.01-11). The point of contact for Small Business Affairs is Kathy Williams (703) 767-9465.

C. Your offer must be received by 3:00 p.m. on May 12, 2003. Facsimile proposals are not authorized. Do not return the entire solicitation package. Simply complete and return an original and one copy of the Offeror Submission Package and an original and two copies of the Technical Data and Past Performance submissions as described in Clause L201. Lack of registration in the Central Contractor Registration (CCR) database will make an offeror ineligible for award as described in Clause I1.07. Your price must be inserted in Clause B33.01 in the Offeror Submission Package. The Line Item 0001 price must include any G&A and profit associated with all line items. Proposed prices that are unrealistically low may be considered an indication of a lack of understanding of the solicitation requirements. Attach to your Offeror Submission Package the insurance binder required by Clause I131. The required insurance coverage is detailed in Clauses H51.03.

D. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentations are neither necessary nor wanted.

E. Unless you specifically state otherwise, your offer is assumed to accept all terms and conditions of this solicitation. Any exceptions to any part of this solicitation must be specifically identified in a cover letter to your proposal.

F. The Government intends to evaluate proposals and award a contract after written or oral discussions with all responsible offerors that submit proposals with the competitive range (see Clause L2.05-8). The best value decision will be based on combination of price and past performance (see Clause M100). The resulting type of contract will be Firm Fixed Price with Cost Reimbursement Provisions.

G. Any contract awarded to a contractor who, at the time of award, was suspended, debarred, or ineligible for receipt of a Government contract is voidable at the option of the Government.

H. The following clauses are specifically applicable to the cost reimbursement portions of this solicitation. E200, I230, I400.02, I400.03, I400.05, I400.06, I400.07, I400.08, I400.09, I400.10, and I400.13.

I. Care should be taken to mail correspondence relating to this solicitation or resulting contract to the appropriate office as indicated in the applicable clauses.

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING		PAGE 1 OF 62	
2. CONTRACT NUMBER		3. SOLICITATION NUMBER SP0600-03-R-0078		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED April 11, 2003	
7. ISSUED BY Defense Energy Support Center 8725 John J. Kingman Road, Suite 4950 Fort Belvoir, VA 22060-6222		CODE SCO600 PP:6.1		6. REQUISITION/PURCHASE NUMBER SP0600-03-0500			
				8. ADDRESS OFFER TO (If other than Item 7) ATTN: BID CUSTODIAN, DESC-CPC, RM. 3815 Defense Energy Support Center, 8725 John J. Kingman Road, Suite 4950, Fort Belvoir, VA 22060-6222 - Verification: 703-767-7367			

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and 1 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if
handcarried, in the depository located in DESC-CPC, Room 3815 until 3:00 local time May 12, 2003
(Hour) (Date)

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section I, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME MONICA T. FASS	B. TELEPHONE (NO COLLECT CALLS)		C. E-MAIL ADDRESS
		AREA CODE (703)	NUMBER 767-9326	EXT. Monica.Fass@dla.mil

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(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
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OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within 180 calendar days 180 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)		10 CALENDAR DAYS %	20 CALENDAR DAYS %	30 CALENDAR DAYS %	CALENDAR DAYS %
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):		AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILIT	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or Print)		
15B. TELEPHONE NUMBER		<input type="checkbox"/> 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE		18. OFFER DATE
AREA CODE	NUMBER				

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED		20. AMOUNT		21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)) <input checked="" type="checkbox"/> 4 U.S.C. 253(c) ()				23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	
24. ADMINISTERED BY (If other than Item 7)		CODE		25. PAYMENT WILL BE MADE BY CODE	
26. NAME OF CONTRACTING OFFICER (Type or print)				27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	
				28. AWARD DATE	

IMPORTANT - Award will be made on this form, or on Standard Form 26, or by other authorized official written notice.

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	#1994-2473 (REV. 26) DTD 5/29/2002	ATTACHMENT 2
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SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS**B33.01 SERVICES TO BE FURNISHED AND PRICES (MULTIYEAR) (GOCO) (DESC JUL 1993)**

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

SECTION C – DESCRIPTION/SPECIFICATIONS/PERFORMANCE WORK STATEMENT

(See Attachment I)

SECTION E – INSPECTION AND ACCEPTANCE**E1.11 QUALITY CONTROL PLAN (DESC MAR 2000)**

(a) Upon award, the Contractor shall prepare, in triplicate and in English, a Quality Control Plan (QCP). Prior to the first receipt of Government-owned product into the facility, two copies of the QCP shall be forwarded to the Contracting Officer and one copy to the assigned Quality Assurance Representative for approval.

(b) The QCP shall include the following quality control procedures employed by the Contractor.

(1) Receiving (both product and additives);

(2) Blending;

(3) Sampling;

(4) Testing;

(5) Storage and handling;

(6) Loading and shipping;

(7) Calibration program for testing and measuring equipment in accordance with ISO 10012-1, "Quality Assurance Requirements for Measuring Equipment, Part I." Equivalent local regulation, as appropriate, may be used as well. Whichever program used must include a section addressing meter proving (used to determine quantity) and must comply with the American Petroleum Institute Manual of Petroleum Measurement Standards, Chapters 4, 5, and 6, or equivalent foreign standard. For any item that requires calibration but is not covered by ASTM, API, or IP publications, the applicable manufacturer's recommended calibration method(s) outlined in the applicable industry publication shall be used if acceptable to the Government;

(8) Quantity measurement;

(9) Records and reports; and

(10) Corrective action procedures (to include, but not be limited to, procedures for notification of Quality Representative, actions to be taken on discovery of off-spec product during receipts/shipments, upgrading procedures for Contractor-caused contamination, leaks, etc.). The QCP shall also include an organizational chart of key personnel and their responsibilities and a schematic diagram of the facility with key inspection/activity points marked for each product handled.

(c) The QCP shall require that each Contractor employee be familiar with its content and shall state that it must be reviewed semiannually and revised as needed. Revision should occur when any change is made to the inspection system, when any corrective action needs to be incorporated due to quality problems, and as otherwise necessary. The Contractor shall sign and date each revision of the QCP. (DESC 52.246-9F32)

E5.03 INSPECTION OF SERVICES - FIXED-PRICE (AUG 1996)

(a) **DEFINITION. Services**, as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

(FAR 52.246-4)

E22.01 QUALITY REPRESENTATIVE (DESC JUL 1992)

The Quality Office assigned inspection responsibility under this contract is Defense Energy Support Center Americas East, 2320 LaBranch, Suite 1005, Houston, TX 77004-1091.

(DESC 52.246-9F35)

E29.01 CONTRACT TURNOVER INSPECTION (DESC MAR 2002)

The outgoing Contractor, during the last 10 working days of the contract, shall permit personnel of the successor Contractor access to all contracted facilities to observe operations. The successor Contractor shall, during the last 96 hours of the expiring contract, be provided assistance by the outgoing Contractor, DESC representatives, and the Contracting Officer's Representative (COR) in accomplishing a joint facilities turnover inspection. The inspection shall provide for a facilities walk-through and property inventory, product sampling and testing, and a complete product inventory. The successor Contractor agrees to protect and not disclose any inadvertently disclosed proprietary information of the outgoing Contractor discovered during the turnover period.

(DESC 52.246-9FF2)

E50 RESPONSIBILITY FOR SUPPLIES (APR 1984)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon--

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) above shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) above shall apply.

(d) Under paragraph (b) above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(FAR 52.246-16)

E200 INSPECTION OF SERVICES - COST-REIMBURSEMENT (APR 1984)

(a) **DEFINITION. Services**, as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances or (2) terminate the contract for default.

(FAR 52.246-5)

SECTION F – DELIVERIES AND PERFORMANCE**F200 DELIVERY PERIOD AND PERFORMANCE REQUIREMENTS (DESC APR 1997)**

The Contractor shall operate, maintain, and protect the Government-owned bulk petroleum terminal at Defense Fuel Support Point Charleston, SC, in accordance with all terms and conditions set forth herein for the period of 12:00 noon, May 1, 2004, through 12:00 noon, May 1, 2009.

(DESC 52.242-9FA5)

SECTION G - CONTRACT ADMINISTRATION DATA**G1 POSTAWARD CONFERENCE (DEC 1991)**

The Contractor agrees to attend any postaward conference convened by the contracting activity or contract administration office in accordance with Federal Acquisition Regulation Subpart 42.5.

(DFARS 252.242-7000)

G3 INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)

Each invoice submitted for payment under this contract shall be identified by an individual invoice number. The number shall not be duplicated on subsequent invoices. Duplicate invoice numbers or invoices that do not include numbers may be rejected.

(DESC 52.211-9FH5)

G3.01 PAYMENT DUE DATE (DESC OCT 1988)

When payment due date falls on a Saturday or Sunday, or on a United States Official Federal holiday, payment will be due and payable on the following workday.

(DESC 52.232-9F45)

G9.06 ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DESC DEC 1999)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

G9.09 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

G9.14 SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER (MAY 1999)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

G21 DESIGNATION OF PROPERTY ADMINISTRATOR (DESC MAR 1995)

The Property Administrator for product handled under the terms of the contract will be designated by the Commander, Defense Energy Support Center.

(DESC 52.242-9F65)

G22 DESIGNATION OF THE DEFENSE FUEL REGION (DESC JUL 1997)

(a) The Defense Fuel Region to which reference is made herein is the--

DESC Americas East
2320 LaBranch, Suite 1005
Houston, TX 77004-1091

(b) The Defense Fuel Office to which reference is made herein is the—
same as above.

(c) The Commander of the Defense Fuel Region or his designee, appointed above, is the authorized representative of the Commander, Defense Energy Support Center.

(DESC 52.242-9F55)

G96 ADMINISTRATION OF THE SMALL BUSINESS SUBCONTRACTING PROGRAM (DESC APR 2003)

The SMALL BUSINESS SUBCONTRACTING PLAN clause contained in any contract awarded under this solicitation will be administered by the Small Business Office of the Defense Energy Support Center.

(DESC 52.242-9F15)

G148.05 SUBMISSION OF INVOICES FOR PAYMENT (SERVICES) (DESC MAR 2002)

Monthly services invoices shall be mailed directly to the Accounting and Finance Office after self-certification. All other invoices are mailed to the Contract Administration Office (CAO) after Quality Representative (QR) certification. Specific procedures follow:

(a) **MONTHLY INVOICES.** Contractors shall present invoices for monthly services (original and 3 copies) directly to the following Accounting and Finance Office within one month following the performance of the respective services:

DEFENSE FINANCE AND ACCOUNTING SERVICE - COLUMBUS CENTER
STOCK FUND DIRECTORATE
FUELS ACCOUNTING AND PAYMENTS DIVISION
ATTN: DFAS-BVD/CC
P.O. BOX 182317
COLUMBUS, OH 43218-2317

Each invoice will be certified by an official of the company in the following manner:

"I certify that the services were performed, that the amounts reflected hereon are in conformance with the contract, and that the amounts are correct and proper for payment."

Signature _____
PRINTED NAME AND TITLE

(b) ALL OTHER INVOICES.

- (1) Contractors shall address invoices to the Accounting and Finance Office listed in (a) above.
- (2) Contractors shall certify that the invoice is true and correct and shall attach supporting documentation (e.g., subcontractor bills or invoices) for cost reimbursement invoices.
- (3) Contractors shall then present the invoice (original and 4 copies) to the cognizant QR for certification that the invoice is true and correct to the best of the QR's knowledge and that the supplies or services included on the invoice have been provided.
- (4) Last, Contractors shall submit the invoice to the applicable CAO address below for approval and for processing to the Accounting and Finance Office for payment. Upon mutual agreement between the Contractor and the QR, the QR may submit the invoice directly to the CAO after certification. The Administrative Contracting Officer (ACO) may authorize the Contractor to send certified invoices directly to the Accounting and Finance Office, concurrent with a copy to the applicable CAO address below. Such ACO authorization must be specifically provided in the contract or modification thereto.

CONUS Contract Locations

ATTN DESC-FPA FPB ROOM 2945
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN RD SUITE 4950
FORT BELVOIR VA 22060-6222

OCNUS Contract Locations

ATTN DESC-FPC ROOM 2945
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN RD SUITE 4950
FORT BELVOIR VA 22060-6222

(c) **OVERTIME.** When the Contractor is authorized by the designated Defense Energy Region (DER) to perform services in excess of normal working hours, the Government will reimburse the Contractor as described in (1) and (2) below. Each invoice for overtime will specify the number of people working, their employment classification, number of hours worked, and the hourly rate of compensation. The written authorization from the DER must be attached to the invoice. (The authorization for overtime may be given initially by telephone, but later must be provided in writing by the DER to the Contractor.) Follow instructions given in (b) above for submission of overtime invoices.

(1) **GOCO (Government-Owned, Contractor-Operated).** The Government will reimburse actual overtime labor rate paid times actual overtime hours, plus social security taxes, insurance, and fringe benefits. No profit or G&A (general and administrative expenses) will be allowed. (Profit and G&A should be included in the monthly services charge based on the dollars estimated for the overtime line item.)

(2) **COCO (Contractor-Owned, Contractor-Operated).** The Government will reimburse at the rate specified in the Schedule clause.

(DESC 52.232-9FF5)

SECTION H – SPECIAL CONTRACT REQUIREMENT

H11 GUARD SERVICE (DESC MAR 1982)

(a) In the event the Government requires guard service and/or other protective services or facilities not otherwise provided by the Contractor pursuant to the terms of this contract, the Government shall have the right--

- (1) To provide such service; or
- (2) To require the Contractor to provide such guard service; and/or
- (3) To require the Contractor to provide such other protective services or facilities.

(b) The actual cost of providing said services or facilities under (2) and/or (3) above will be for the account of the Government and will be recognized by a modification to this contract.

(DESC 52.211-9FK1)

H20 REPORTS OF GOVERNMENT PROPERTY (MAY 1994)

(a) The Contractor shall provide an annual report--

- (1) For all DoD property for which the Contractor is accountable under the contract;
- (2) Prepared in accordance with the requirements of DD Form 1662, DoD Property in the Custody of Contractors, or approved substitute, including instructions on the reverse side of the form; and

- (3) In duplicate, to the cognizant Government property administrator, no later than October 31.
- (b) The Contractor is responsible for reporting all Government property accountable to this contract, including that at subcontractor and alternate locations.

(DFARS 252.245-7001)

H51.03 INSURANCE REQUIREMENTS FOR CONTRACTORS AND SUBCONTRACTORS (DESC AUG 1998)

(a) The General Liability Worker's Compensation and Automobile Liability Insurance to be procured and maintained by the Contractor and any subcontractors pursuant to the provisions of the INSURANCE - WORK ON A GOVERNMENT INSTALLATION clause shall provide at least the following minimum coverage:

GENERAL LIABILITY INSURANCE.

Bodily Injury.....AT LEAST \$ 100,000 per person
AT LEAST \$1,000,000 per accident

Property Damage.....AT LEAST \$1,000,000 per accident

Worker's Compensation.....AT LEAST \$100,000 except in states
with exclusive monopolistic funds which do not permit the writing of workmen's compensation by
private carriers (Nevada, North Dakota, Ohio, Oregon, Washington, West Virginia, and Wyoming).
(Longshore and Harbor Workers' Compensation must also be provided when applicable.)

AUTOMOBILE LIABILITY INSURANCE.

Bodily Injury.....AT LEAST \$200,000 per person
AT LEAST \$500,000 per accident

Property Damage.....AT LEAST \$ 20,000 per accident

(b) Prior to the commencement of work hereunder, at the request of the Contracting Officer, the Contractor shall submit the required certificates of insurance to the Contracting Officer.

(DESC 52.228-9F05)

SECTION I – CONTRACT CLAUSES**II DEFINITIONS (DEC 2001)**

As used throughout this contract, the following terms shall have the meaning set forth below.

(a) **Head of the agency** (also called **agency head**) or **Secretary** means the Secretary (or Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, including any deputy or assistant chief official of the agency; and the term **authorized representative** means any person, persons, or board (other than the Contracting Officer) authorized to act for the head of the agency or Secretary.

(b) **Commercial component** means any component that is a commercial item.

(c) **Commercial item** means--

(1) Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and that--

- (i) Has been sold, leased, or licensed to the general public; or
- (ii) Has been offered for sale, lease, or license to the general public;

(2) Any item that evolved from an item described in subparagraph (c)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirement under a Government solicitation;

(3) Any item that would satisfy a criterion expressed in subparagraph (c)(1) or (c)(2) of this clause, but for--

- (i) Modifications of a type customarily available in the commercial marketplace; or
- (ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements.

Minor modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

(4) Any combination of items meeting the requirements of subparagraph (c)(1), (2), (3), or (5) of this clause that are of a type customarily combined and sold in combination to the general public;

(5) Installation services, maintenance services, repair services, training services, and other services if--

(i) Such services are procured for support of an item referred to in subparagraph (c)(1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed. For purposes of these services--

(i) Catalog price means a price included in a catalog price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) Market prices means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

(7) Any item, combination of items, or service referred to in subparagraphs (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

(8) A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local Governments.

(d) **Component** means any item supplied to the Federal Government as part of an end item or of another component.

(e) **Nondevelopmental item** means--

(1) Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in subparagraph (e)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of subparagraph (e)(1) or (e)(2) solely because the item is not yet in use.

(f) **Contracting Officer** means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(g) Except as otherwise provided in this contract, the term **subcontracts** includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract.

(FAR 52.202-1)

11.01-4 DEFINITIONS (CONT'D) (STORAGE) (DESC JAN 1996)

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) **Quality Representative (QR)** includes the terms Quality Assurance Representative (QAR) and Quality Surveillance Representative (QSR).

(1) The QAR is a Government Representative authorized to represent the Contracting Officer to assure the contractor complies with the contractual requirements in furnishing petroleum products and services.

(2) The QSR is a Government Representative authorized to represent the Contracting Officer to assure the contractor complies with the contractual requirements in furnishing services.

(b) **Petroleum storage facilities** shall include --

(1) The tanks enumerated in the Schedule and all installations, fixtures, and equipment required for safe and expeditious movement of petroleum products into and out of such tanks;

(2) Fencing, flood lighting, dikes or fire walls, suitable fire fighting plan and watchman services to the extent necessary to comply with local regulations and standard commercial practices; and

(3) Whatever unloading and loading facilities that may be required to receive and ship product by the method(s) specified in the Schedule.

(c) The terms **isolated system** and **segregated system** mean a system that has a positive separation from other systems in a tank farm through the means of blind flanges, locked double-block and bleed-type valves, etc.

(d) **Dedicated system** means a self contained, single product system with no pipeline connections to any other system in the facility.

(e) **Common system** means a system that usually utilizes a manifold or pipeline that handles more than one product exclusively.

(f) **Shell capacity** means the gross volumetric capacity of the storage tank as determined from tank calibration.

(g) **Fill capacity** means the capacity of the storage tank when filled to the maximum fill level, i.e., the highest point to which a petroleum storage tank may be filled with product, allowing for product expansion and other safety considerations.

(h) **Product or products** means the Government-owned petroleum product(s) within one of the following categories which the Schedule indicates the Contractor is to receive, store, handle, and ship under this contract:

(1) Crude oil shall include any unrefined petroleum in its natural state;

(2) Light fuels includes any grade of the following distillate fuel types: aircraft engine fuels, motor gasoline, naphtha and like solvents, kerosene, diesel fuels and numbers 1 and 2 heating fuels;

(3) Heavy fuels includes number 4 heating fuel and all residual type fuels;

(4) Lubricating oil includes all grades of such product utilized in aircraft, automotive, diesel, and marine engines;

(5) Packaged products means all products packaged in containers of 55-gallon capacity or less.

(i) **Unit of quantity** means--

(1) The U.S. gallon of 231 cubic inches;

(2) The barrel of 42 U.S. gallons;

- (3) The long ton of 2240 pounds; and
- (4) The pound of 16 ounces, depending upon the unit shown in the Schedule.

(j) **Description of services to be performed** as stated in the CHANGES - FIXED PRICE clause is defined to include, but is not limited to, the following:

- (1) The grade or type of product by specification;
- (2) The regular working hours set forth in the schedule;
- (3) The method of receiving or shipping.
- (4) The specifications of Contractor-furnished equipment,
- (5) The provisions of the General Delivery Conditions as amended;
- (6) The number of the Contractor-furnished units (equipment);
- (7) The response time;
- (8) The estimated truck movement; and
- (9) The MERT hours.

(k) **Equipment or delivery and servicing equipment** as used herein means those fuel and/or oil servicing units such as tank trucks, tank trailers, mobile hose carts, pantographs (fixed or mobile), small trailers and drums together with the necessary prime movers.

(l) **Fuel and Oil** used herein means aircraft reciprocating engine fuel, aircraft turbine and jet engine fuel, aircraft reciprocating engine oil, and jet engine oil.

(m) **Response time** is defined as that interval of time between the time a call is placed on the Contractor to service an aircraft and the time the Contractor's equipment is in position to service said aircraft.

(n) For purposes of this contract, the term **truck movement** as set forth above is defined to be any of the following:

- (1) The movement of a refueler, defueler, or oiler to, and servicing of, an aircraft. In the event that more than one aircraft is serviced as a result of one service call, each individual aircraft servicing shall be considered a "truck movement."
- (2) The movement of a combination refueler/oiler which services an aircraft with both products. Such movement shall be considered a 1 1/2 "truck movement."
- (3) The movement of a combination refueler/oiler which services an aircraft with oil only. Such movement shall be considered one "truck movement."
- (4) Servicing of group support equipment, small tanks, and/or other units as designated by the Commanding Officer, with either jet fuel or AVGAS, shall count as truck movements if dispatched separately. Each such servicing, if performed in multiples or in conjunction with aircraft fuel delivery, shall be counted as a 1/5 "truck movement" with the exception of the first which will count as one "truck movement."
- (5) The movement of a refueler, defueler, or oiler as the result of a service call which is not completed, due to no fault of the Contractor.
- (6) The movement of a refueler, defueler, or oiler to a tank farm for purposes of refilling or discharging product as applicable. With regard to refueler refilling, only those refills totaling 1,000 gallons or more per vehicle shall be considered a truck movement. The Commanding Officer may, at his discretion, exercise control and supervision over the refilling/discharging operation.

(DESC 52.202-9F35)

11.02 COMPUTER GENERATED FORMS (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, PROVIDED there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form Number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form PROVIDED there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different from the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(FAR 52.253-1)

11.06 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

(Official's Name)

(Title)

- (c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including—
- (1) Cost or pricing data if required in accordance with subpart 15.403-4 of the Federal Acquisition Regulation (FAR); and
 - (2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.
- (d) The certification requirement in paragraph (b) of this clause does not apply to—
- (1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or
 - (2) Final adjustments under an incentive provision of the contract.
- (DFARS 252.243-7002)

THIS CLAUSE DOES NOT APPLY TO FOREIGN VENDORS PERFORMING OUTSIDE THE UNITED STATES.

11.07 REQUIRED CENTRAL CONTRACTOR REGISTRATION (NOV 2001)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

11.09 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2001)

(a) **DEFINITIONS.** As used in this clause--

(1) **Commercial items** has the meaning contained in the clause at 52.202-1, Definitions.

(2) **Subcontract** includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) (1) The Contractor shall insert the following clauses *in* subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2)(3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceed \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Feb 1999) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212(a)).

(iv) 52.222.36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

(v) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (Jun 2000) (46 U.S.C. Appx. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(FAR 52.244-6)

11.19 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any DOD FAR Supplement Regulation (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(FAR 52.252-6)

11.20 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these addresses:

FAR/DFARS: <http://farsite.hill.af.mil>
DLAD: <http://www.dla.mil/j-3/j-336>

(FAR 52.252-2)

11.22 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price-type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be--

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract.

(3) For cost-plus-award-fee contracts--

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may--

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime Contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.203-10)

11.22-1 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a Contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract;

or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(FAR 52.203-8)

11.24 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)

(a) **DEFINITIONS.**

Agency, as used in this clause, means executive agency as defined in 2.101.

Covered Federal action, as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and tribal organization, as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.
- (3) A special Government employee, as defined in section 202, title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

Person, as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

Reasonable compensation, as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

Reasonable payment, as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient, as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

State, as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) PROHIBITIONS.

(1) Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) AGENCY AND LEGISLATIVE LIAISON BY OWN EMPLOYEES.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(a) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(b) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(a) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(b) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(c) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) PROFESSIONAL AND TECHNICAL SERVICES.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of--

(a) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(b) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(a) and (b) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(iii) DISCLOSURE.

(A) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payments using nonappropriated funds (to INCLUDE profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(B) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subdivision (A) of this clause. An event that materially affects the accuracy of the information reported includes--

(a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;

(b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(c) A change in the officer(s), employee(s), or Members(s) contacted to influence or attempt to influence a covered Federal action.

(C) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(D) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(iv) **AGREEMENT.** The Contractor agrees not to make any payment prohibited by this clause.

(v) **PENALTIES.**

(A) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(B) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(vi) **COST ALLOWABILITY.** Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(FAR 52.203-12)

12 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the Contractor.

(DFARS 252.204-7003)

12.06 CHANGES - FIXED-PRICE (ALT II) (AUG 1997/APR 1984)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Description of services to be performed.
- (2) Time of performance (i.e., hours of the day, days of the week, etc.).
- (3) Place of performance of the services.
- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.
- (5) Method of shipment or packing of supplies.
- (6) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the DISPUTES clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(FAR 52.243-1/Alt II)

13 EXTRAS (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

(FAR 52.232-11)

13.01 PROMPT PAYMENT (FEB 2002)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in Sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation.

All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) INVOICE PAYMENTS.

(1) DUE DATE.

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) CERTAIN FOOD PRODUCTS AND OTHER PAYMENTS.

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities, and dairy products; edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat and meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Public Law 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but no later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in Section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in Section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) CONTRACTOR'S INVOICE. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils) with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms).

Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) **TAXPAYER IDENTIFICATION NUMBER (TIN).** The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) ELECTRONIC FUNDS TRANSFER (EFT) BANKING INFORMATION.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer

- Central Contractor Registration; or 52.232-34, Payment by Electronic Funds Transfer - Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract (e.g., evidence of shipment).

(4) **INTEREST PENALTY.** The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) **COMPUTING PENALTY AMOUNT.** The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR Part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If the actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulation at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at 52.233-1, Disputes.

(6) **DISCOUNTS FOR PROMPT PAYMENT.** The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR Part 1315.

(7) ADDITIONAL INTEREST PENALTY.

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR Part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1.00 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor shall make a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii) (A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--

(a) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(b) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(c) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(a) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(b) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) **CONTRACT FINANCING PAYMENT.** If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) **FAST PAYMENT PROCEDURE DUE DATES.** If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) **OVERPAYMENTS.** If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(FAR 52.232-25)

14 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)

(a) Discounts for prompt payments will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when the Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(FAR 52.232-8)

17 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

(a) **DEFINITIONS.** As used in this clause—

Postconsumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of **recovered material**. For paper and paper products, postconsumer material means **postconsumer fiber** defined by the U.S. Environmental Protection Agency (EPA) as—

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

Printed or copied double-sided means printing or reproducing a document so that information is on both sides of a sheet of paper.

Recovered material, for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as **recovered fiber** and means the following materials:

(1) Postconsumer fiber, and

(2) Manufacturing wastes such as—

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) *Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.*

(b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.

(c) If the Contractor cannot purchase high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. The lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

(FAR 52.204-4)

18.02 ASSIGNMENT OF CLAIMS (ALT I) (JAN 1986/APR 1984)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence. Unless otherwise stated in this contract, payments to an assignee of any amounts due or to become due under this contract shall not, to the extent specified in the Act, be subject to reduction or setoff.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(FAR 52.232-23/Alt I)

I11.01-4 ADMINISTRATIVE COST OF TERMINATION FOR DEFAULT -- NONCOMMERCIAL ITEMS OR SERVICES (DESC FEB 2000)

(a) In the event this contract/task order is terminated for default, in whole or in part, the Government will incur administrative costs.

(b) The term **termination action**, as used herein, means the termination for default, including any associated reprocurement effort, involving--

- (1) Any single task order or any group of orders terminated together;
- (2) Any item or group of items terminated together; or
- (3) The entire contract.

(c) The Contractor agrees to pay all administrative costs associated with a contract termination action. The minimum amount the Contractor shall pay for each termination action is \$500. This payment for administrative costs is in addition to any excess reprocurement costs and any other remedies or damages resulting from the termination.

(DESC 52.249-9F30)

I11.03 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

(a) (1) The Government may, subject to paragraphs (c) and (d) below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

- (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- (ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) below); or
- (iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (1)(ii) and (1)(iii) above, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the DISPUTES clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.249-8)

I11.04 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all

Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(FAR 52.242-13)

112.01 DISPUTES (JUL 2002)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) **Claim**, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) The Contractor shall provide the certification specified in subsection (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, that is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(FAR 52.233-1)

112.03 PROTEST AFTER AWARD (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the DEFAULT, or the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if-

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; PROVIDED, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(FAR 52.233-3)

115.03 CONVICT LABOR (AUG 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment that has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

(a) (1) The worker is paid or is in an approved work training program on a voluntary basis;

(2) Representatives of local union central bodies or similar labor union organizations have been consulted;

(3) Such paid employment will not result in the displacement of employed workers, nor be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, nor impair existing contracts for services; and

(4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(FAR 52.222-3)

116.01 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (SEP 2000)

(a) **OVERTIME REQUIREMENTS.** No Contractor or subcontractor contracting employing laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) **VIOLATION; LIABILITY FOR UNPAID WAGES; LIQUIDATED DAMAGES.** The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) **WITHHOLDING FOR UNPAID WAGES AND LIQUIDATED DAMAGES.** The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) **PAYROLLS AND BASIC RECORDS.**

(1) The Contractor and its subcontractor shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each such employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) *The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.*

(e) **SUBCONTRACTS.** The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts exceeding \$100,000 and require subcontractors to include these provisions in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(FAR 52.222-4)

118 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (MAR 1999)

(a) DEFINITIONS.

As used in this clause--

(1) **Arising out of a contract with the DoD** means any act in connection with--

(i) Attempting to obtain;

(ii) Obtaining; or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) **Conviction of fraud or any other felony** means any conviction for fraud or a felony in violation of state or Federal criminal statutes whether entered on a verdict or plea, including a plea of nolo contendere, for which sentence has been imposed.

(3) **Date of Conviction** means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, or fraud or any other felony arising out of a contract with the DoD is prohibited from serving--

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than five years from the date of conviction.

(d) 10 U.S.C. 2408 further provides that a defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly--

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the Contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as--

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify--

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

(DFARS 252.203-7001)

118.02 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) **Segregated facilities**, as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies, or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the EQUAL OPPORTUNITY clause in the contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the EQUAL OPPORTUNITY clause of this contract.

(FAR 52.222-21)

I18.03 EQUAL OPPORTUNITY (FEB 1999)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) of this clause. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records) and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontractor or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; PROVIDED, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(FAR 52.222-26)

I18.06 DISPLAY OF DOD HOTLINE POSTER (DEC 1991)

(a) The Contractor shall display prominently in common work areas within business segments performing work under Department of Defense (DoD) contracts, DoD Hotline posters prepared by the Office of the Inspector General, DoD.

(b) DoD Hotline posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

(c) The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(DFARS 252.203-7002)

I20 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) (1) **Bona fide agency**, as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(2) **Bona fide employee**, as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

(3) **Contingent fee**, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

(4) **Improper influence**, as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(FAR 52.203-5)

I24 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(FAR 52.222-1)

I25 AUTHORIZATION AND CONSENT (JUL 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(FAR 52.227-1)

I27 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

- (1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and
- (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled--

- (1) To pursue the same remedies as in a breach of the contract; and
- (2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times

the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.203-3)

128.16 FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)

(a) **Contract date**, as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

(1) **All applicable Federal, State, and local taxes and duties**, as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

(2) **After-imposed Federal tax**, as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

(3) **After-relieved Federal tax**, as used in this clause, means any amount of federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(FAR 52.229-3)

132 CANCELLATION UNDER MULTIYEAR CONTRACTS (OCT 1997)

(a) **Cancellation**, as used in this clause, means that the Government is canceling its requirements for all supplies or services in program years subsequent to that in which notice of cancellation is provided. Cancellation shall occur by the date or within the time period specified in the Schedule, unless a later date is agreed to, if the Contracting Officer (1) notifies the Contractor that funds are not available for contract performance for any subsequent program year, or (2) fails to notify the Contractor that funds are available for performance of the succeeding program year requirement.

(b) Except for cancellation under this clause or termination under the DEFAULT clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT clause.

(c) If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not over the cancellation ceiling specified in the Schedule as applicable at the time of cancellation.

(d) The cancellation charge will cover only (1) costs (i) incurred by the Contractor and/or subcontractor, (ii) reasonably necessary for performance of the contract, and (iii) that would have been equitably amortized over the entire multiyear contract period but, because of the cancellation, are not so amortized, and (2) a reasonable profit or fee on the costs.

(e) The cancellation charge shall be computed and the claim made for it as if the claim were being made under the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT clause of this contract. The Contractor shall submit the claim promptly but no later than one year from the date (1) of notification of the nonavailability of funds, or (2) specified in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Contracting Officer.

(f) The Contractor's claim may include--

(1) Reasonable nonrecurring costs (see FAR Subpart 15.4) that are applicable to and normally would have been amortized in all supplies or services that are multiyear requirements;

(2) Allocable portions of the costs of facilities acquired or established for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work, and if the costs are not charged to the contract through overhead or otherwise depreciated;

(3) Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and

(4) Costs not amortized by the unit price solely because the cancellation had precluded anticipated benefits of

Contractor or subcontractor learning.

(g) The claim shall not include--

(1) Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;

- (2) Any cost already paid to the Contractor;
- (3) Anticipated profit or unearned fee on the canceled work; or
- (4) For service contracts, the remaining useful commercial life of facilities. Useful commercial life means the

commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence.

(h) This contract may include an Option clause with the period for exercising the option limited to the date in the contract for notification that funds are available for the next succeeding program year. If so, the Contractor agrees not to include in option quantities any costs of a startup or nonrecurring nature that have been fully set forth in the contract. The Contractor further agrees that the option quantities will reflect only those recurring costs and a reasonable profit or fee necessary to furnish the additional option quantities.

(i) Quantities added to the original contract through the Option clause of this contract shall be included in the quantity canceled for the purpose of computing allowable cancellation charges.

(FAR 52.217-2)

I33 INTEREST (JUN 1996)

(a) Except as otherwise provided in this contract under a PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA clause or a COST ACCOUNTING STANDARDS clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(FAR 52.232-17)

I36 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (b)(6) of this clause; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any

transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(d) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of--

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (g)(1) of this clause;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (i) above; and

(iii) A sum, as profit on subdivision (g)(2)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable costs of settlement of the work terminated, including --

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the DISPUTES clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l) respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any

proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(FAR 52.249-2)

143.01 LIMITATION OF LIABILITY - SERVICES (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that (1) occurs after Government acceptance of services performed under this contract and (2) results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

(FAR 52.246-25)

194.01 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (OCT 1997)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which--

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d) (1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2) (i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data and that the data were not submitted before such date.

(ii) An offset shall not be allowed if--

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(FAR 52.215-11)

195 AUDIT AND RECORDS -- NEGOTIATION (JUN 1999)

(a) As used in this clause, **records** includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) **EXAMINATION OF COSTS.** If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing this contract.

(c) **COST OR PRICING DATA.** If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

(1) The proposal for the contract, subcontract, or modification;

(2) The discussions conducted on the proposal(s), including those related to negotiating;

(3) Pricing of the contract, subcontract, or modification; or

(4) Performance of the contract, subcontract, or modification.

(d) **COMPTROLLER GENERAL.**

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) **REPORTS.** If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating--

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) **AVAILABILITY.** The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after

final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition--

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the DISPUTES clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and--

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(FAR 52.215-2)

196.02 PRICING ADJUSTMENTS (DEC 1991)

The term **pricing adjustment**, as used in paragraph (a) of the PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS, SUBCONTRACTOR COST OR PRICING DATA, and SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS clauses means the aggregate increases and/or decreases in cost plus applicable profits.

(DFARS 252.215-7000)

197.02 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997)

(a) The requirements of paragraphs (b) and (c) of this clause shall--

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(FAR 52.215-13)

198 PROTECTING THE GOVERNMENT'S INTERESTS WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)

(a) The Government suspends or debars Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(FAR 52.209-6)

1100 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)**(a) DEFINITIONS.**

(1) **Act**, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

(2) **Contractor**, as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(3) **Service employee**, as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as the terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) **APPLICABILITY.** This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) COMPENSATION.

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid in the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the

agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classification based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) **Adjustment of Compensation.** If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) **OBLIGATION TO FURNISH FRINGE BENEFITS.** The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) **MINIMUM WAGE.** In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) **SUCCESSOR CONTRACTS.** If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wage and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligations unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contractor was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) **NOTIFICATION TO EMPLOYEES.** The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) **SAFE AND SANITARY WORKING COMDITIONS.** The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) **RECORDS.**

(1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act--

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the

Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) **PAY PERIODS.** The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semimonthly.

(k) **WITHHOLDING OF PAYMENTS AND TERMINATION OF CONTRACT.** The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) **SUBCONTRACTS.** The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) **COLLECTIVE BARGAINING AGREEMENTS APPLICABLE TO SERVICE EMPLOYEES.** If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) **SENIORITY LIST.** Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) **RULINGS AND INTERPRETATIONS.** Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) **CONTRACTOR'S CERTIFICATION.**

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statement is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) **VARIATIONS, TOLERANCES, AND EXEMPTIONS INVOLVING EMPLOYMENT.** Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment and apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under two acts authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) **APPRENTICES.** Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) **TIPS.** An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(n) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision--

- (1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;
- (2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);
- (3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and
- (4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) **DISPUTES CONCERNING LABOR STANDARDS.** The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees of their representatives.

(FAR 52.222-41)

I102 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 1989)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, et seq.), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price or contract unit price labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor until the expiration of 3 years after final payment under the contract.

(FAR 52.222-43)

1102.02 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT -- PAYROLL TAX ADJUSTMENT (DESC JUL 1988)

(a) The Contractor warrants that the prices set forth in this contract do not include any contingency allowance for increased costs for which adjustment is provided by this clause.

(b) When payroll taxes that are applicable to this contract by law (i.e., Workmen's Compensation, Federal Unemployment Insurance (FUI), State Unemployment Insurance (SUI), and Federal Insurance Compensation (FICA) rates) are revised or imposed after award, increasing or decreasing the Contractor's costs under this contract, the contract price or contract unit price will be adjusted to reflect the changes. This adjustment shall be limited to increases or decreases in payroll taxes and shall not include any amount for general and administrative cost, overhead, or profit.

(c) The Contractor shall notify the Contracting Officer of any increases or decreases claimed under this clause within 30 days after the effective date of the change in payroll taxes, unless this period is extended by the Contracting Officer in writing. In the case of any decrease in payroll taxes, if a Contractor fails to promptly notify the Contracting Officer, the Government retains the right to submit a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any other relevant data in support thereof that may reasonably be required by the Contracting Officer. Upon agreement of the parties, the contract price shall be modified in writing. Pending agreement on or determination of any such adjustment and its effective date, the Contractor shall continue performance.

(d) The Contracting Officer or his authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor.

(DESC 52.222-9F10)

1102.03 DRUG-FREE WORK FORCE (SEP 1988)

(a) DEFINITIONS.

(1) **Employee in a sensitive position**, as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security, health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) **Illegal drugs**, as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objective of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, the efficient use of Contractor resources, and the risk to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employee has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of Subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988)), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such time as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing programs shall not apply to the extent they are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees that those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(DFARS 252.223-7004)

1102.04 DRUG-FREE WORKPLACE (MAR 2001)

(a) **DEFINITIONS.** As used in this clause--

(1) **Controlled substance** means a controlled substance in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

(2) **Conviction** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

(3) **Criminal drug statute** means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

(4) **Drug-free workplace** means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

(5) **Employee** means an employee of a Contractor directly engaged in the performance of work under a Government contract. **Directly engaged** is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

(6) **Individual** means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall - within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration); or as soon as possible for contracts of less than 30 days performance duration--

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (a)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Take appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(FAR 52.223-6)

1102.05 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION.

EMPLOYEE CLASS**MONETARY WAGE - FRINGE BENEFITS**

21010	Fuel Distribution System Operator	WG-6
23340	Fuel Distribution System Mechanic	WG-10
27101	Guard I	GS-5
27102	Guard II	GS-6
01312	Secretary II	GS-5

(FAR 52.222-42)

I114 GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (DEC 1989)**(a) GOVERNMENT-FURNISHED PROPERTY.**

(1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(2) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "as-is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(3) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(4) If Government-furnished property is not delivered to the Contractor by the required time, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) CHANGES IN GOVERNMENT-FURNISHED PROPERTY.

(1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract, or (ii) substitute other Government-furnished property for the property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by such notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make the property available for performing this contract and there is any--

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

(ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

(c) TITLE IN GOVERNMENT PROPERTY.

(1) The Government shall retain title to all Government-furnished property.

(2) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract--

(i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(ii) Title to all other material shall pass to and vest in the Government upon--

(A) Issuance of the material for use in contract performance;

(B) Commencement of processing of the material or its use in contract performance; or

(C) Reimbursement of the cost of the material by the Government, whichever occurs first.

(d) USE OF GOVERNMENT PROPERTY. The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) PROPERTY ADMINISTRATION.

(1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

(f) **ACCESS.** The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) **LIMITED RISK OF LOSS.** Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

(h) **EQUITABLE ADJUSTMENT.** When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for--

- (1) Any delay in delivery of Government-furnished property;
- (2) Delivery of Government-furnished property in a condition not suitable for its intended use;
- (3) A decrease in or substitution of Government-furnished property; or
- (4) Failure to repair or replace Government property for which the Government is responsible.

(i) **FINAL ACCOUNTING AND DISPOSITION OF GOVERNMENT PROPERTY.** Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.

(j) **ABANDONMENT AND RESTORATION OF CONTRACTOR'S PREMISES.** Unless otherwise provided herein, the Government--

(1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and

(2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) **COMMUNICATIONS.** All communications under this clause shall be in writing.

(l) **OVERSEAS CONTRACTS.** If this contract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(FAR 52.245-2)

I116 RESPONSIBILITY FOR GOVERNMENT-OWNED PETROLEUM PRODUCTS (DESC APR 1997)

(a) Government-owned petroleum products received, stored, and transported under this contract are governed by the provisions of this clause.

(b) Title to any Government-owned petroleum products in the possession of or under the custody of the Contractor by reason of this contract, which is hereinafter referred to in this clause as "such property," shall at all times remain in the Government, and such property shall be used only for the purposes set forth in this contract. The Government shall at all times have access to the premises wherein any such property is located.

(c) The Contractor shall protect and preserve such property in a manner consistent with sound industrial practice.

(d) At the end of the contract period the Government may abandon any Government-owned petroleum products in place, at which time all obligations of the Government regarding such abandoned petroleum products shall cease. The contract price shall be reduced to reflect the fair market value of any abandoned petroleum products. If an agreement as to compensation for abandoned petroleum products cannot be reached in a timely manner, the Contracting Officer will make a formal determination. The decision will be

subject to resolution in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause.

(e) The Contractor shall not be liable for loss of or damage to all such property while in the possession of or under the custody of the Contractor by reason of this contract, or for expenses incidental to such loss or damage, except that the Contractor shall be liable for any such loss or damage (including expenses incidental thereto)--

(1) Which results from negligence, or bad faith, or willful misconduct of the Contractor, its employees, or agents; or

(2) Which results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but the Contractor in such case shall be responsible only to the extent of such insurance or reimbursement.

(f) Except for those risks assumed by the Contractor pursuant to subparagraph (e)(1) of this clause, the Contractor represents and warrants that the prices stated in the Schedule do not include the cost of insurance covering risk or loss of or damage to such property while in the possession of or under the custody of the Contractor by reason of this contract, nor any provision for a reserve to cover such risk. In the event the Contractor is reimbursed or compensated for any loss or damage to such property, it shall reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(DESC 52.245-9F25)

1116.01 LIABILITY FOR FUEL SPILLS (DESC OCT 1998)

The Contractor shall take all measures required by law and good business practice to prevent fuel spills (including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into or onto any land or water). In the event that the Contractor's failure to take such measures results in a fuel spill, the Contractor shall be liable for the costs of spill containment, cleanup, and disposal. In addition, the Contractor shall reimburse the Government for any resulting fines or penalties. For purposes of this clause, the term **fuel** includes all petroleum and additive products.

(DESC 52.223-9F40)

1117 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(FAR 52.237-2)

1119.04 INVENTORY CONTROL RECORDS AND SYSTEMS OF RECORD (DESC JAN 2003)

(a) **INTRODUCTION.** The Contractor shall prepare all documentation and systemically process related transactions in accordance with the information and instructions provided herein. Documents and procedures are subject to change. The Government shall notify the Contractor at least 30 days prior to implementation of any change. Unless the Government has specifically stated it will provide the hardware (usually at Government-owned facilities), the Contractor shall provide requisite hardware (specifications will be provided by the Government) capable of processing inventory and accounting transactions through DESC-provided applications or software. The current processing methodologies include via TELNET/DADS to the Defense Fuels Automated Management System (DFAMS) or via a web/internet-based or web dial-in application under the Fuels Automated System (FAS) program (transactions are processed to the FAS Enterprise Server (FES)). The FAS applications require the Contractor to either have internet access (with static IP address capability) or establish a dial-in account to the DESC FAS web server (once system access has been approved). Currently, DESC web-based applications use the DoD Public Key Infrastructure (PKI) compliant web browser which will be provided to the Contractor by DESC. These identified DESC systems require user identifications and passwords in accordance with DoD Automated Data Processing (ADP) Level III systems access. The Contractor shall be responsible for (in conjunction with DESC/DLA) identifying employees that will be processing inventory/accounting transactions for obtaining requisite systems access for those employees. It should be noted that DoD ADP Level III systems access requires a National Agency Check (NAC) investigation. Those contractors which have not had a NAC will be provided forms and fingerprint cards for the investigation, which DLA will initiate. The Contractor shall notify DESC when Contractor personnel with access privileges no longer work at the contract facility or no longer require access.

(b) AUTOMATED FUEL INVENTORY REPORTING REQUIREMENTS.

(1) The Contractor shall prepare all necessary documentation (see paragraph (b)(5)) for, and systemically process, each transaction affecting the inventory of Government-owned products in its possession by virtue of this contract. Within 48 hours of each transaction, the Contractor shall input transaction data into the automated inventory and accounting system(s) or applications designated/provided by the Government. Initial training for inputting transactional data will be provided by the Government via on-site support or via electronic means, such as user manuals or on-line support/tutorials, after which the Contractor assumes all responsibility for timeliness and accuracy of transaction data input by its employees. The Contractor shall prepare and report each transaction in accordance with guidance provided during the training and, thereafter, by qualified Government representatives. The Government will advise the Contractor of any changes in processing and reporting procedures. The Government reserves the right to telephone the Contractor on a daily basis (Monday through Friday, except holidays) to obtain information concerning transactions processed *to* monitor transactions using identified processing systems.

(2) The Contractor shall record the physical inventory quantity (corrected to 60 degrees Fahrenheit) in the automated inventory system for each Government-owned product stored at the facility. Weekly inventory shall be recorded as of 0800 local time every Friday and monthly inventory shall be recorded as of 0800 local time on the first calendar day of each month. However, systemically, the end of month (EOM) physical inventory shall be reported against the last calendar day of the preceding month. The Contractor shall have the account reconciled by the third working day of the month.

(3) The Contractor shall prepare inventory adjustment documents (DD Form 1348-8) when inventory variances (discrepancies) exceed tolerance factors*; and when determinable losses occur, such as contaminated fuels, spills, pipeline ruptures, explosions or loss of product samples (five gallons or more) shipped to laboratories. A statement shall be provided by the Contractor on each inventory adjustment document explaining each gain and/or loss in excess of DESC provided tolerances. Each document shall be signed and dated by the Contractor's representative and the authorized Government representative and copies provided to DESC-FIE and DESC-FIW. The authorized Government representative shall indicate whether he/she concurs or nonconcurs with the statement and shall provide an explanation for any nonconcurrence. The term **authorized Government representative**, as used in this clause, refers to the quality representative assigned to the DFSP.

*Tolerance factors are 0.50 percent (0.005) for aviation and motor gasoline (avgas 130, MUR, MUP, etc.); 0.30 percent (0.003) for JP4; and 0.25 percent (0.025) for other jet fuels, distillates, residuals (JP5/JP8, diesel grades, F76, JPTS, etc.) and FSIL.

(4) **END OF MONTH RECONCILIATION.** The Contractor shall have the account reconciled by the third working day of the month. The Contractor shall also provide DESC-FIE and DESC-FIW, within five working days after the end of the month, a written explanation of any discrepancy providing a detailed explanation of any gain or loss transaction in excess of tolerance. The Contractor shall retain all supporting documents on file for future audits.

(5) The following are documentation requirements for transactions:

TRANSACTION

DOCUMENT

SHIPMENTS

Shipments from a DFSP to authorized customers

DD Form 250/250-1
DD Form 1348-7

Shipments between DFSPs

DD Form 250/250-1
DD Form 1348-7

RECEIPTS

Receipts from a DESC Procurement Contract

DD Form 250/250-1

Service/Agency Receipts from a DFSP

DD Form 250/250-1
DD Form 1348-7

Receipts from a DFSP

(receipts associated with shipments between DFSPs)

DD Form 250-1
DD Form 1348-7

Receipts from an end-user (with or without credit)

DD Form 250/250-1
DD Form 1348-7

INVENTORY

Physical Inventory

DD Form 1348-8

Inventory Adjustments

DD Form 1348-8

Normal handling of variances (excessive)

DESC Form 24 (for
FCC 1027 users)

Determinable losses such as spills, line breaks, nonrecoverable
tank bottoms, major disasters, combat losses, etc.

Condition/Identity Change

DD Form 1348-8

Downgrade, regrade, or additive

(c) OTHER REQUIREMENTS.

(1) **STORAGE TANK OUT OF SERVICE.** Prior to removing a storage tank from service, the Contractor shall immediately notify the authorized Government representative by telephone, with follow-up confirmation in writing, providing the date and time the tank is scheduled to be removed from service. In addition, the Contractor shall provide the authorized Government representative a written estimate of unrecoverable tank bottoms. The estimate will be reviewed and approved by the authorized Government representative prior to submission to DESC.

(2) **UNRECOVERABLE TANK BOTTOMS.** Prior to the end of the contract period, the Contractor shall provide the authorized Government representative a written estimate of unrecoverable tank bottoms. The estimate will be reviewed and approved by the authorized Government representative prior to submission to DESC.

(3) **REPORTING FUEL ADDITIVES AND SLOP FUEL.** Government-owned fuel additives, slop fuel, and transmix stock at the DFSP will be treated as separate and distinct items, and all transactions shall be documented as outlined herein. These products will be recorded in gallons and reported under the approved National Stock Number (NSN).

(i) An auditable identity change document (DD Form 1348-8) shall be used to account for bulk FSII blended with bulk fuel and fuel downgraded to slop. Fractions of a gallon cannot be used (e.g., if 1.5 gallons of FSII were injected, report 1 gallon and record the .5 once a whole gallon is used).

(ii) Packaged additives such as COR, ASA, ASI, AD1, and CO1 shall be accounted for locally using a general log or ledger. As the additive is injected, record the amount in the log to track usage and inventory. No other documentation is required.

(4) **CREATION OF SHIPMENT TRANSACTIONS.** As required and directed by the Government, storage Contractors shall create electronic shipment transactions using the USBank POWERTRACK on-line freight payment system. The Government shall advise Contractors of any changes in processing and reporting procedures. Contractors shall contact the Government when additional guidance is required. CONUS storage Contractors shall maintain a daily written log of motor carrier performance to include: carrier, destination, number of trucks ordered, number of trucks furnished, and deficiencies. On the last business day of each calendar month, the Contractor shall forward a copy of the daily written logs to the DESC Americas office having oversight of the motor carrier contract.

(5) **STATEMENT OF AUTHORIZED SIGNATURES.** The Contractor shall furnish the authorized Government representative a statement containing the names and handwritten signatures of persons authorized by the Contractor to receive and accept Government-owned product or property.

(6) **CHANGE IN DFSP OPERATOR.** Transfer of residual inventory from expired contracts will be made regardless of whether there is a change in contractors. The transfer of DFSP product will be accomplished as follows:

(i) The outgoing Contractor, the new Contractor, and the authorized Government representative will jointly gauge all tanks and calculate the physical inventory.

(ii) Upon completion of the inventory, a DD Form 1348-8 will be completed for each grade of fuel.

(iii) The following certification will be typed on each DD Form 1348-8 and signed by the appropriate individuals:

"The inventory recorded on this DD Form 1348-8 has been transferred from contract

(old number) to contract (new number) on (date).

Signature _____ (Outgoing Contractor) / _____ (New Contractor) "

(iv) The Contractor shall provide this information to the Government by telephone and by mailing one copy of each DD Form 1348-8.

(v) The Government will mail three copies of the Inventory Reconciliation Document Register* covering the transfer month to the outgoing Contractor. The outgoing Contractor shall apply appropriate certification to the Inventory Reconciliation Document Register* and retain one copy, provide one copy to the new Contractor, and return the third copy to the Government.

(7) **RETENTION OF ACCOUNTABLE RECORDS AND DOCUMENTS.** All records and documents identified above are DESC-accountable records and must be retained for two years after expiration of the contract.

**Not separately required if DESC provided automated inventory/accounting systems or applications are being used to electronically process transactional data (i.e., applications under the DESC FAS program).*

(DESC 52.245-9F30)

I121 CUSTODY OF PETROLEUM PRODUCT (DESC APR 1968)

(a) Custody of petroleum products and risk of loss thereof shall pass to the Contractor as follows:

(1) **PIPELINE RECEIPTS.** When the product passes the flange connecting the carrier's pipeline and the Government-furnished Contractor-operated pipeline.

(2) **MARINE RECEIPTS.** When the product passes the permanent hose connections of the barge or tanker unloading the product.

(3) **TANK CAR RECEIPTS.** When the tank car comes to rest on the Government-furnished Contractor-operated siding.

(4) **TRANSPORT TRUCK RECEIPTS.** When the product passes from the transport truck discharge hoses into the Government-furnished Contractor-operated receiving facilities whether it be a storage tank, line, or any other type of receiving equipment.

(b) Custody of petroleum products and risk of loss thereof shall pass from the Contractor as follows:

(1) **PIPELINE SHIPMENTS.** When the product passes the flange connecting the Government-furnished Contractor-operated pipeline and the carrier's pipeline.

(2) **MARINE SHIPMENTS.** When the product passes the permanent hose connections of the barge or tanker.

(3) **TANK CAR SHIPMENTS.** When the loaded tank car is picked up by the carrier.

(4) **TRANSPORT TRUCK SHIPMENTS.** When the loaded transport truck is released for shipment by the Contractor.

(DESC 52.211-9F85)

I122 USE OF FACILITIES (DESC APR 1984)

(a) The Contractor shall not use the facilities (defined in FAR Part 45) for any purpose other than that required for the performance of this contract.

(b) The Contractor shall not be required to pay rental for the use of the facilities for the performance of this contract. The Contractor shall not include any amount on account of rental of the facilities as an element of price or cost under this contract. The Contractor further agrees and represents that in no event will it include any amount or allowance for amortization, depreciation, or obsolescence of the facilities as an element of cost or price under any contract with the Government or any subcontract thereunder.

(c) The Government shall not be liable to the Contractor for damage or loss of profit by reason of nondelivery or of any delay in the delivery of any of the facilities. In any such case, the Contracting Officer shall equitably adjust the performance dates or contract price, or both, and any other contract provisions affected by the nondelivery or delay in accordance with the procedures provided for in the CHANGES clause of this contract.

(DESC 52.245-9F10)

I123 TITLE TO FACILITIES (DESC JUL 1991)

(a) Title to the facilities, including any additions or replacements thereto, furnished by the Government shall at all times remain with the Government.

(b) Title to all repairs, replacement parts, or accessories furnished and affixed to the facilities by the Contractor in performing maintenance hereunder shall vest in the Government.

(DESC 52.245-9F15)

I124 LIABILITY FOR THE FACILITIES (JAN 1997) (DEVIATION)

(a) The term "Contractor's managerial personnel," as used in this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant or separate location in which the facilities are installed or located; or

(3) A separate and complete major industrial operation in connection with which the facilities are used.

(b) The Contractor shall not be liable for any loss or destruction of, or damage to, the facilities, or for expenses incidental to such loss, destruction, or damage, except as provided in this clause.

(c) The Contractor shall be liable for loss or destruction of, or damage to, the facilities, and for expenses incidental to such loss, destruction, or damage--

(1) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained, or to the extent of insurance actually purchased and maintained, whichever is greater;

(2) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(3) For which the Contractor is otherwise responsible under the express terms of this contract;

(4) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(5) That results from a failure, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel--

(i) To establish, maintain, and administer a system for control of the facilities in accordance with the "Property administration" paragraph of the Government Property clause; or

(ii) To maintain and administer a program for maintenance, repair, protection, and preservation of the facilities, in accordance with the "Property administration" paragraph of the Government Property clause, or to take reasonable steps to comply with any appropriate written direction that the Contracting Officer may prescribe as reasonably necessary for the protection of the facilities. If the Government Property clause does not include the "Property administration" paragraph, then the Contractor shall exercise sound industrial practice in complying with the requirements of this subdivision (c)(5)(ii).

(d) (1) If the Contractor fails to act as provided by subparagraph (c)(5) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or nonacceptance of

the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(2) Furthermore, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage--

- (i) Did not result from the Contractor's failure to maintain an approved program or system; or
- (ii) Occurred while an approved program or system was maintained by the Contractor.

(e) If the Contractor transfers facilities to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the facilities. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the facilities while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all the facilities in as good condition as when received, except for reasonable wear and tear or for their utilization in accordance with the provisions of the prime contract.

(f) Unless expressly directed in writing by the Contracting Officer, the Contractor shall not include in the price or cost under any contract with the Government the cost of insurance (including self-insurance) against any form of loss, destruction, or damage to the facilities. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time, and with such insurers (including the Contractor as self-insurer in appropriate circumstances) as the Contracting Officer shall require or approve. Such insurance shall provide for 30 days advance notice to the Contracting Officer, in the event of cancellation or material change in the policy coverage on the part of the insurer. Documentation of insurance or an authenticated copy of such insurance shall be deposited promptly with the Contracting Officer. The Contractor shall, not less than 30 days before the expiration of such insurance, deliver to the Contracting Officer documentation of insurance or an authenticated copy of each renewal policy. The insurance shall be in the name of the United States of America (Agency Name), the Contractor, and such other interested parties as the Contracting Officer shall approve, and shall contain a loss payable clause reading substantially as follows:

"Any loss under this policy shall be adjusted with (Contractor) and the proceeds, at the direction of the Government, shall be paid to (Contractor). Proceeds not paid to (Contractor) shall be paid to the office designated by the Contracting Officer."

(g) When there is any loss or destruction of, or damage to, the facilities, with the exception of low value property for which the loss, damage, or destruction is required to be reported at contract termination, completion, or when needed for continued contract performance--

(1) The Contractor shall promptly notify the Contracting Officer and, with the assistance of the Contracting Officer, shall take all reasonable steps to protect the facilities from further damage, separate the damaged and undamaged facilities, put all the facilities in the best possible order, and promptly furnish to the Contracting Officer (and in any event within 30 days) a statement of--

- (i) The facilities lost or damaged;
- (ii) The time and origin of the loss or damage;
- (iii) All known interests in commingled property of which the facilities are a part; and
- (iv) Any insurance covering any part of or interest in such commingled property;

(2) The Contractor shall make such repairs, replacements, and renovations of the lost, destroyed, or damaged facilities, or take such other action as the Contracting Officer may direct in writing; and

(3) The Contractor shall perform its obligations under this paragraph (g) at Government expense, except to the extent that the Contractor is liable for such damage, destruction, or loss under the terms of this clause, and except as any damage, destruction, or loss is compensated by insurance.

(h) The Government is not obliged to replace or repair the facilities that have been lost, destroyed, or damaged. If the Government does not replace or repair the facilities, the right of the parties to an equitable adjustment in delivery or performance dates, price, or both, and in any other contractual condition of the related contracts affected shall be governed by the terms and conditions of those contracts.

(i) Except to the extent of any loss or destruction of, or damage to, the facilities for which the Contractor is relieved of liability, the facilities shall be returned to the Government or otherwise disposed of under the terms of this contract (1) in as good condition as when received by the Contractor, (2) improved, or (3) as required under the terms of this contract, less ordinary wear and tear.

(j) If the Contractor is in any way compensated (excepting proceeds from use and occupancy insurance, the cost of which is not borne directly or indirectly by the Government) for any loss or destruction of, or damage to, the facilities, the Contractor, as directly by the Contracting Officer, shall--

- (1) Use the proceeds to repair, renovate, or replace the facilities involved; or
- (2) Pay such proceeds to the Government.

(k) The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any loss or destruction of, or damage to, the facilities. Upon the request of the Contracting Officer, the Contractor shall furnish to the Government, at Government expense, all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(FAR 52.245-8)

I129 AVAILABILITY AND USE OF UTILITY SERVICES (APR 1984)

(a) The Government shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where the utility is produced by the Government, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

(b) The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the Government, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

(FAR 52.236-14)

I131 INSURANCE - WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(FAR 52.228-5)

I132.02 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) The Schedule (excluding the specifications);
- (b) Representations and other instructions;
- (c) Contract clauses;
- (d) Other documents, exhibits, and attachments; and
- (e) The specifications.

(FAR 52.215-8)

I168 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

(a) **DEFINITIONS.** As used in this clause--

All employment openings includes all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

Appropriate office of the State employment service system means the local office of the Federal-State national system of public employment offices with assigned responsibility to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

Positions that will be filled from within the Contractor's organization means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings that the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Veteran of the Vietnam era means a person who--

- (1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or
- (2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(b) **GENERAL.**

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a disabled veteran or a veteran of the Vietnam era. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans' status in all employment practices such as--

- (i) Employment;
- (ii) Upgrading;

- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) LISTING OPENINGS.

(1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all employment openings with the appropriate office of the State employment service.

(3) The listing of employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(d) **APPLICABILITY.** This clause does not apply to the listing of employment openings that occur and are filled outside the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(e) POSTINGS.

(1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans and veterans of the Vietnam era.

(f) NONCOMPLIANCE.

If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) SUBCONTRACTS.

The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(FAR 52.222-35)

1169 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

(1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the Contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date (1) as of the end of any pay period during the period January through March 1st of the year the report is due, or (2)

as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) **SUBCONTRACTS.** The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

(FAR 52.222-37)

1170 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) **DEFINITIONS.** As used in this contract--

(1) **HUBZone small business concern** means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(2) **Service-disabled veteran-owned small business concern--**

(i) Means a small business concern--

(A) Not less than 51 percent of which is owned by one or more service-disabled or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(B) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(ii) **Service-disabled veteran** means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(6).

(3) **Small business concern** means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(4) **Small disadvantaged business concern** means a small business concern that represents, as part of its offer, that--

(i) It has received certification as a small disadvantaged business concern consistent with 13 CFR Part 124, Subpart B;

(ii) No material change in disadvantaged ownership and control has occurred since its certification;

(iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

(5) **Veteran-owned small business concern** means a small business concern--

(i) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(ii) The management and daily business operations of which are controlled by one or more veterans.

(6) **Women-owned small business concern--**

(i) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(FAR 52.219-8)

I178 WASTE REDUCTION PROGRAM (AUG 2000)**(a) DEFINITIONS.** As used in this clause—

(1) **Recycling** means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

(2) **Waste prevention** means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount of toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

(3) **Waste reduction** means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR Part 247).

(FAR 52.223-10)

I180.02 ENVIRONMENTAL PROTECTION (STORAGE) (DESC MAY 1987)

The Contractor agrees to conform to all laws and regulations relating to the protection of the environment in effect on the date the contract is awarded, which are applicable to its operation in the performance of this contract. The Contractor further agrees to conform to any laws or regulations enacted after contract award that are applicable to its operation in the performance of this contract. In the event that conformance with any such new laws or regulations causes an increase or decrease in the operating cost, the Contractor and the Government will negotiate an equitable adjustment in the contract price. Failure to agree on an equitable adjustment in the contract price shall be a dispute concerning a question of fact within the meaning of the DISPUTES clause of this contract; however, nothing in this clause shall excuse the Contractor from implementing any such laws or regulations. The Contractor shall proceed with performance of this contract, unless so advised in writing by the Contracting Officer.

(DESC 52.223-9F25)

I181 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)**(a) GENERAL.**

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organization structures, position descriptions, lines of progression, and seniority lists;

(v) Leave of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) POSTINGS.

(1) The Contractor agrees to post employment notices stating--

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual or may lower the posted notice so that it may be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) **NONCOMPLIANCE.** If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) **SUBCONTRACTS.** The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant to enforce the terms, including action for noncompliance.

(FAR 52.222-36)

I185.01 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)

(a) **DEFINITIONS.** As used in this clause--

Foreign person means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

United States person is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) **CERTIFICATION.**

By submitting this offer, the offeror, if a foreign person, company or entity, certifies that it--

(1) Does not comply with the secondary Arab boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the secondary boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(DFARS 252.225-7031)

I190.03 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)

(a) **DEFINITIONS.** As used in this clause--

(1) **Storage** means a nontransitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

(2) **Toxic or hazardous materials** means--

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR Part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense or his designee.

(DFARS 252.223-7006)

I190.05 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)

(a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Safety Data Sheets required by Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856.

(FAR 52.223-5)

I198 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR Part 31 and DFARS Part 231, in effect on the date of this contract, apply.

(DFARS 252.243-7001)

I203 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

When the allowability of costs under this contract is determined in accordance with Part 31 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with Part 231 of the Defense FAR Supplement, in effect on the date of this contract.

DFARS 252.231-7000)

I209.03 EXTENSION PROVISION (STORAGE) (DESC SEP 1991)

The Government shall have the right to extend this contract upon the same terms and conditions on a month-by-month basis for a total of no more than six months. Notice of extensions may be furnished any time prior to the expiration of this contract or any extensions thereof. The foregoing extensions may be exercised by the Government only if (a) a decision is made by the Government that the additional time is required to deplete the Government-owned stocks stored in the facility, (b) a contract for follow-on services is terminated for default by the Government prior to commencement of services, or (c) where the extension is required to sustain performance because of difficulties encountered in award of the follow-on contract.

(DESC 52.217-9F40)

I211 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from May 1, 2004 through May 1, 2009.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(FAR 52.216-18)

I225 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if--

(a) The amount due on the deliveries warrants it; or

(b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

(FAR 52.232-1)

I229 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

(a) Except as provided in (b) below, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) above does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract that exceed \$100,000.

(FAR 52.203-6)

NOTE:**ALTERNATE I (OCT 1995), substitute this paragraph (b) for commercial acquisitions:**

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

I230 COST CONTRACT - NO FEE (APR 1984)

(a) The Government shall not pay the Contractor a fee for performing this contract.

(b) After payment of 80 percent of the total estimated cost shown in the Schedule, the Contracting Officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed one percent of the total estimated cost shown in the Schedule or \$100,000, whichever is less.

(FAR 52.216-11)

I236 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JUL 1996)

(a) **DEFINITION. Small business concern**, as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) GENERAL.

(1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(c) **AGREEMENT.** A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term "United States" includes its territories and possessions, the Commonwealth of Puerto Rico, the trust territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply in connection with construction or service contracts.

(FAR 52.219-6)

I251 ANTI-KICKBACK PROCEDURES (JUL 1995)**(a) DEFINITIONS.**

(1) **Kickback**, as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(2) **Person**, as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

(3) **Prime Contract**, as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

(4) **Prime Contractor**, as used in this clause, means a person who has entered into a prime contract with the United States.

(5) **Prime Contractor Employee**, as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

(6) **Subcontract**, as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

(7) **Subcontractor**, as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

(8) **Subcontractor Employee**, as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act) prohibits any person from--

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c) (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) above may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the prime Contractor withhold from sums owed a subcontractor under the prime contract, monies withheld, the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract that exceed \$100,000.

(FAR 52.203-7)

I255 ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995)

(a) The Contractor shall not deny consideration for a subcontract award under this contract to a potential subcontractor subject to on-site inspection under the INF Treaty, or a similar treaty, solely or in part because of the actual or potential presence of Soviet inspectors at the subcontractor's facility, unless the decision is approved by the Contracting Officer.

(b) The Contractor shall incorporate this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation, except those for commercial items.

(DFARS 252.209-7000)

1285 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$25,000 with a firm, or a subsidiary of a firm, that is identified on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(DFARS 252.209-7004)

1400 CONTINUITY OF SERVICES (JAN 1991)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to (1) furnish phase-in training and (2) exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

(FAR 52.237-3)

THE FOLLOWING CLAUSES (1400 SERIES) ARE ONLY APPLICABLE TO THE COST REIMBURSEMENT LINE ITEMS, WHICH ARE NON-FREE BEARING.

1400.02 LIMITATION OF COST (APR 1984)

(a) The parties estimate that performance of this contract, exclusive of any fee, will not cost the Government more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that--

(1) The costs the Contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule; or

(2) The total cost for the performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated.

(c) As part of the notification, the Contractor shall provide the Contracting Officer a revised estimate of the total cost of performing this contract.

(d) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause--

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of (i) the estimated cost specified in the Schedule or, (ii) if this is a cost-sharing contract, the estimated cost to the Government specified in the Schedule; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated cost specified in the Schedule, until the Contracting Officer (i) notifies the Contractor in writing that the estimated cost has been increased and (ii) provides a revised estimated total cost of performing this contract. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(e) No notice, communication, or representation in any form other than that specified in subparagraph (d)(2) above, or from any person other than the Contracting Officer, shall affect this contract's estimated cost to the Government. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the estimated cost or, if this is a cost-sharing contract, for any costs in excess of the estimated cost to the Government specified in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination.

(f) If the estimated cost specified in the Schedule is increased, any costs the Contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

(g) Change orders shall not be considered an authorization to exceed the estimated cost to the Government specified in the Schedule, unless they contain a statement increasing the estimated cost.

(h) If this contract is terminated or the estimated cost is not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(FAR 52.232-20)

THE FOLLOWING CLAUSE IS APPLICABLE ONLY TO THE COST-REIMBURSEMENT LINE ITEMS. THE COST-REIMBURSEMENT PORTION IS NON-FEE-BEARING. THEREFORE, ANY REFERENCE TO REIMBURSEMENT OF FEE IS NOT APPLICABLE TO THIS CONTRACT.

I400.03 TERMINATION (COST-REIMBURSEMENT) (SEP 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if--

(1) The Contracting Officer determines that a termination is in the Government's interest; or

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

(b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government, and (iii) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (c)(6) of this clause; PROVIDED, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(e) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove

those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(f) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(g) Subject to paragraph (e) above, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue these costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (h)(1) of this clause.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under subparagraph (h)(4) of this clause.

(i) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the DISPUTES clause, from any determination made by the Contracting Officer under paragraph (f), (h), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h), or (l) of this clause, the Government shall pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.

(l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

(FAR 52.249-6)

I400.05 CHANGES - COST-REIMBURSEMENT (ALT II) (AUG 1987/APR 1984)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Description of services to be performed.
- (2) Time of performance (i.e., hours of the day, days of the week, etc.).
- (3) Place of performance of the services.
- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.
- (5) Method of shipment or packing of supplies.
- (6) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the contract accordingly.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) Failure to agree to any adjustment shall be a dispute under the DISPUTES clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the LIMITATION OF COST or LIMITATION OF FUNDS clause of this contract.

(FAR 52.243-2/Alt II)

I400.06 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990)

(a) The use of overtime is authorized under this contract if the overtime premium cost does not exceed \$5,000/yr or the overtime premium is paid for work--

- (1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;
- (2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;
- (3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or
- (4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

- (1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;
- (2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;
- (3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and
- (4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

(FAR 52.222-2)

I400.07 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)

(a) Notwithstanding any other clause of this contract--

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

(FAR 52.242-1)

THE FOLLOWING CLAUSE IS ONLY APPLICABLE TO THE COST-REIMBURSEMENT CONTRACT LINE ITEM(S). THE CLAUSE DOES NOT APPLY TO THE FIRM-FIXED PRICE CONTRACT LINE ITEM(S).

I400.08 EXCUSABLE DELAYS (APR 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless--

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

(FAR 52.249-14)

I400.09 SUBCONTRACTS (ALT I) (AUG 1998/AUG 1998)

(a) **DEFINITIONS.** As used in this clause--

Approved purchasing system means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

Subcontract means any contract, as defined FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds--

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of this contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

(f) (1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

- (iv) The proposed subcontract price.
 - (v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
 - (vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.
 - (vii) A negotiation memorandum reflecting--
 - (A) The principal elements of the subcontract price negotiations;
 - (B) The most significant considerations controlling establishment of initial or revised prices;
 - (C) The reason why cost or pricing data were or were not required;
 - (D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;
 - (E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;
 - (F) The reasons for any significant difference between the Contractor's price objective and the price negotiated;
 - and
 - (G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.
- (2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.
- (g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination--
- (1) Of the acceptability of any subcontract terms or conditions;
 - (2) Of the allowability of any cost under this contract; or
 - (3) To relieve the Contractor of any responsibility for performing this contract.
- (h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).
- (i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.
- (j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.
- (k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(FAR 52.244-2/Alt 1)

I400.10 INSURANCE - LIABILITY TO THIRD PERSONS (MAR 1996)

- (a) (1) Except as provided in subparagraph (2) of this clause, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.
- (2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; PROVIDED that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.
- (3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.
- (b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.
- (c) The Contractor shall be reimbursed--
 - (1) For that portion (i) of the reasonable cost of insurance allocable to this contract and (ii) required or approved under this clause; and
 - (2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise without regard to and as an exception to the limitation of cost or the limitation of funds clause of this contract. These liabilities

must arise out of the performance of this contract, whether or not caused by the negligence of the Contractor or of the Contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Government. These liabilities are for--

- (i) Loss of or damage to property (other than property owned, occupied, or used by the Contractor, rented to the Contractor, or in the care, custody, or control of the Contractor); or
- (ii) Death or bodily injury.
- (d) The Government's liability under paragraph (c) of this clause is subject to the availability of appropriated funds at the time a contingency occurs. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.
- (e) The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities)--
 - (1) For which the Contractor is otherwise responsible under the express terms of any clause specified in the Schedule or elsewhere in the contract;
 - (2) For which the Contractor has failed to insure or to maintain insurance as required by the Contracting Officer; or
 - (3) That result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of--
 - (i) All or substantially all of the Contractor's business;
 - (ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or
 - (iii) A separate and complete major industrial operation in connection with the performance of this contract.
- (f) The provisions of paragraph (e) of this clause shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required in accordance with this clause; PROVIDED, that such cost is allowable under the Allowable Cost and Payment clause of this contract.
- (g) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall--
 - (1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;
 - (2) Authorize Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and
 - (3) Authorize Government representatives to settle or defend the claim and to represent the Contractor in or to take charge of any litigation, if required by the Government, when the liability is not insured or covered by bond. The Contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation.

(FAR 52.228-7)

I400.13 ALLOWABLE COST AND PAYMENT (MAR 2000)

(a) **INVOICING.** The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(b) REIMBURSING COSTS.

(1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of this clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term **costs** includes only--

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for --

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments will be made--

(a) In accordance with the terms and conditions of a subcontract or invoice; and

(b) Ordinarily prior to the submission of the Contractor's next payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financial payments that have been paid by cash, check, or other form of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid

unless--

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) **SMALL BUSINESS CONCERNS.** A small business concern may receive more frequent payments than every 2 weeks.

(d) **FINAL INDIRECT COST RATES.**

(1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the FAR in effect for the period covered by the indirect cost rate proposal.

(2) (i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify—

(i) The agreed-upon final annual indirect cost rates;

(ii) The bases to which the rates apply;

(iii) The periods for which the rates apply;

(iv) Any specific indirect cost items treated as direct costs in the settlement; and

(v) The affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates.

The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Within 120 days after settlement of the final indirect cost rates covering the year in which this contract is physically complete (or longer, if approved in writing by the Contracting Officer), the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(5) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the DISPUTES clause.

(e) **BILLING RATES.** Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates--

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) **QUICK-CLOSEOUT PROCEDURES.** Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) **AUDIT.** At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be—

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) **FINAL PAYMENT.**

(1) Upon approval of a completion invoice or voucher, submitted by the Contractor in accordance with paragraph (d)(4) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver--

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except --

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; PROVIDED, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date, or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(FAR 52.216-7)

I605.01 DISCLOSURE OF INFORMATION (DESC FEB 1992)

The Contractor agrees to notify and obtain the verbal approval of the Contracting Officer prior to releasing any information to any third parties including the news media regarding any work under this contract except as required by law. The Contractor shall immediately notify the Contracting Officer of the receipt of any request by a third party for the disclosure of any information regarding this contract. This requirement shall apply to all subcontractors and project employees. The Contractor is required to include a similar clause in any subcontractor agreement.

(DESC 52.224-9F05)

SECTION J – LIST OF ATTACHMENTS

FORM	TITLE	LOCATION
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SF33	SOLICITATION, OFFER AND AWARD	PAGE 1
	PERFORMANCE WORK STATEMENT	ATTACHMENT 1
	DEPARTMENT OF LABOR WAGE DETERMINATION	
	#1994-2473 (REV. 26) DTD 5/29/2002	ATTACHMENT 2
	OFFEROR SUBMISSION PACKAGE	ATTACHMENT 3

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS

K1.01-5 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K1.01-6 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K1.01-11 SMALL BUSINESS PROGRAM REPRESENTATIONS (ALTS I/II) (OCT 2000/OCT 2000/OCT 2000)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K1.06 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 1999)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K15 RELEASE OF UNIT PRICES (DESC OCT 2002)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K15.03 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K33.01 AUTHORIZED NEGOTIATORS (DESC JAN 1998)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K85 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K88 TAXPAYER IDENTIFICATION (OCT 1998)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K94 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (APR 2001)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K96 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

K99 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERS OR QUOTERS**L1.02 PROPOSAL ACCEPTANCE PERIOD (DESC NOV 1991)**

(a) **Acceptance period**, as used in this provision, means the number of calendar days available to the Government for awarding a contract from the date specified in this solicitation for receipt of proposals.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The Government requires a minimum acceptance period of 180 calendar days.

(d) If the offeror specifies an acceptance period which is less than that required by the Government, such offer may be rejected.

(e) The offeror agrees to execute all that it has undertaken to do, in compliance with its offer, if such offer is acceptable to the Government and is accepted within the acceptance period stated in (c) above or within any extension thereof that has been agreed to by the offeror.

(DESC 52.215-9FB1)

L2.01 INSTRUCTIONS TO OFFERORS (RFP) (DESC OCT 1981)

Offerors are expected to examine all sections of the solicitation and the Information to Offerors form. Failure to do so will be at offeror's risk. Each offeror shall furnish the information required by the solicitation. Offers and modifications thereto shall be signed and dated. The name and title of the person authorized to sign the offer is to be printed or typed on the offer. The offer shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. Erasures or other changes must be initialed by the person signing the offer. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.

(DESC 52.215-9F45)

L2.05-8 INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION (ALT I) (FEB 2000/OCT 1997)

(a) **DEFINITIONS.** As used in this provision--

(1) **Discussions** are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

(2) **In writing or written** means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

(3) **Proposal modification** is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award. Proposal revision is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

(4) **Time**, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturday, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) **AMENDMENTS TO SOLICITATIONS.** If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) **SUBMISSION, MODIFICATION, REVISION, AND WITHDRAWAL OF PROPOSALS.**

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals, and modifications to proposals shall be submitted in paper media in sealed envelopes or packages—

(i) Addressed to the office specified in the solicitation; and

(ii) Showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror.

Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The proposal must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the prices set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic address if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, revision, and withdrawal of proposals.

(i) Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii) (A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "**late**" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--

(a) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(b) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, or It was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(c) It is the only proposal received.

It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposal in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the FACSIMILE PROPOSALS provision. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, EVALUATION OF FOREIGN CURRENCY OFFERS, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) **OFFER EXPIRATION DATE.** Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet.

(e) **RESTRICTION ON DISCLOSURE AND USE OF DATA.** Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: THIS PROPOSAL INCLUDES DATA THAT SHALL NOT BE DISCLOSED OUTSIDE THE GOVERNMENT AND SHALL NOT BE DUPLICATED, USED, OR DISCLOSED -- IN WHOLE OR IN PART -- FOR ANY PURPOSE OTHER THAN TO EVALUATE THIS PROPOSAL. IF, HOWEVER, A CONTRACT IS AWARDED TO THIS OFFEROR AS A RESULT OF -- OR IN CONNECTION WITH -- THE SUBMISSION OF THIS DATA, THE GOVERNMENT SHALL HAVE THE RIGHT TO DUPLICATE, USE, OR DISCLOSE THE DATA TO THE EXTENT PROVIDED IN THE RESULTING CONTRACT. THIS RESTRICTION DOES NOT LIMIT THE GOVERNMENT'S RIGHT TO USE INFORMATION CONTAINED IN THIS DATA IF IT IS OBTAINED FROM ANOTHER SOURCE WITHOUT RESTRICTION. THE DATA SUBJECT TO THIS RESTRICTION ARE CONTAINED IN SHEETS (INSERT NUMBERS OR OTHER IDENTIFICATION OF SHEETS); and

(2) Mark each sheet of data it wishes to restrict with the following legend: USE OR DISCLOSURE OF DATA CONTAINED ON THIS SHEET IS SUBJECT TO THE RESTRICTION ON THE TITLE PAGE OF THIS PROPOSAL.

(f) CONTRACT AWARD.

(1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

(ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;

(iii) A summary of the rationale for award; and

(iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(FAR 52.215-1/Alt I)

L2.21 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.

(b) The use in this solicitation of any DOD FAR Supplement Regulation (48 CFR Chapter 2) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(FAR 52.252-5)

L2.28 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

(a) This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotations or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provisions by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

FAR/DFARS: <http://farsite.hill.af.mil/>

FAR/DFARS: <http://www-far.npr.gov/>

DLAD: <http://www.procregs.hq.dla.mil/>

(FAR 52.252-1)

L5 SERVICE OF PROTEST (AUG 1996)

(a) **Protests**, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from--

ATTN: **DFSC-CPA**
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN ROAD SUITE 4950
FORT BELVOIR VA 22060-6222

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with GAO.

(FAR 52.233-2)

L5.01-1 AGENCY PROTESTS (SEP 1999) - DLAD

Companies protesting this procurement may file a protest (1) with the Contracting Officer, (2) with the General Accounting Office, or (3) pursuant to Executive Order No. 12979, with the Agency for a decision by the Activity's Chief of the Contracting Office. Protests filed with the Agency should clearly state that they are an "Agency Level Protest under Executive Order No. 12979." (**NOTE:** DLA procedures for Agency Level Protests filed under Executive Order No. 12979 allow for a higher level decision on the initial protest than would occur with a protest to the Contracting Officer; this process is not an appellate review of a Contracting Officer's decision on a protest previously filed with the Contracting Officer.) Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the Contracting Officer.

(DLAD 52.233-9000)

L17 AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L (DEC 1999)

Copies of specifications, standards, and data item descriptions cited in this solicitation may be obtained --

- (a) From the ASSIST database via the Internet at <http://assist.daps.mil>; or
- (b) By submitting a request to the --

DEPARTMENT OF DEFENSE SINGLE STOCK POINT (DODSSP)
BUILDING 4 SECTION D
700 ROBBINS AVENUE
PHILADELPHIA PA 19111-5094

TELEPHONE: (215) 697-2667/2179
FACSIMILE: (215) 697-1462.

(FAR 52.211-2)

L23 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (MAR 1998)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., the VETS-100 report required by FAR clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it has submitted the most recent report required by 38 U.S.C. 4212(d).

(DFARS 252.209-7003)

L54.01 SITE VISIT (APR 1984)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

(FAR 52.237-1)

L74 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a Firm-Fixed Price with Cost Reimbursement provisions contract resulting from this solicitation.

(FAR 52.216-1)

L82 WAGE DETERMINATION (DESC JAN 1986)

This procurement is subject to Wage Determination Number 1994-2473 (Rev. 26) dated 5/29/02 as determined by the Administrator, Wage and Hour Public Contracts Division, U.S. Department of Labor. Register of Wage Determination and Fringe Benefits under the McNamara-O'Hara Service Contract Act is attached and made a part of this solicitation.

(DESC 52.222-9F10)

L87.06 CONDITIONS FOR MULTIYEAR OFFERS (DESC APR 2001)

- (a) Offerors must submit a price for the total multiyear requirements. Offers for less than the multiyear requirements will not be considered for award, except for items specifically designated as one-year requirements.
- (b) An offered price on a multiyear line item shall apply to the entire period of the multiyear requirement.
- (c) Award will not be made for less than the multiyear requirements, except for those items designated as one-year requirements.

(DESC 52.207-9FA5)

L197 PREPROPOSAL CONFERENCE (DESC MAY 1983)

A Preproposal Conference, in conjunction with the site visit, will be held on April 29, 2003 commencing at 9:00 a.m. at the Defense Fuel Support Point, Charleston, SC. On or before April 25, 2003, the offeror is requested to submit by letter, telephone, or wire the name(s) of the individual(s) who plan to attend.

(DESC 52.215-9F20)

L201 INSTRUCTIONS TO OFFERORS (GOCO) (DESC MAR 2002)

(The full text of these clauses is included in the Offeror Submission Package at Attachment 3)

L203 HANDCARRIED OFFERS AND EXPRESS DELIVERY SERVICE (DESC JAN 1998)

(a) Any handcarried offer must be received at the depository indicated on the Standard Form (SF) 33 or SF 1449 of this solicitation by the date and time specified for receipt of offers. Evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the solicitation wrapper or other documentary evidence of receipt maintained by the installation.

(b) Offers delivered by an express delivery service will be considered "handcarried." Therefore, bidders/offerors that respond to this solicitation using an express delivery service must ensure that the express delivery service "handcarries" the offer to the depository indicated on the SF 33 or SF 1449.

(c) The term **express delivery service** does not include Express Mail delivered by the United States Postal Service. Express Mail will be considered "mail" under the LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS provision or the Late Offers paragraph of the INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS or INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITIONS provision.

(DESC 52.252-9F05)

SECTION M – EVALUATION FACTORS FOR AWARD**M72 EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS) (DESC APR 1997)**

(a) Offerors are expected to submit offers in full compliance with all terms and conditions of this solicitation.

(b) Any exceptions/deviations to the terms and conditions of this solicitation will result in the Government's determination that either--

(1) The exception/deviation is material enough to warrant rejection of the offer in part or in full; or

(2) The exception/deviation is acceptable.

(c) If the exception/deviation is in reference to a specification contained in this solicitation and the offeror cannot supply product fully meeting the required specification(s), the product can be offered for consideration provided the offeror clearly indicates, by attachment to the offer, the extent to which any product offered differs from the required specification(s).

(d) If the exception/deviation is in reference to a particular test, inspection, or testing method contained in this solicitation, the offer can be considered provided the offeror clearly indicates, by attachment to the offer, the extent to which its offer differs from those requirements.

(e) If the exception/deviation is determined acceptable, offered prices may be adjusted, for evaluation purposes only, by the Government's best estimate of the quantitative impact of the advantage or disadvantage to the Government that might result from making an award under those circumstances.

(DESC 52.209-9F45)

M100 EVALUATION OF OFFERS (GOVERNMENT-OWNED CONTRACTOR-OPERATED TERMINALS) (DESC APR 2002)

(a) All offers will first be evaluated to determine if they meet the Government's minimum qualifications. Offers that meet the Government's minimum qualifications will then be evaluated based on price and past performance. Price is more important than the Past Performance.

(b) The lowest price will be determined by multiplying each acceptable offeror's monthly service charge by 60 and comparing all offerors' service charges.

(c) Past performance will be evaluated using reference data provided by the Contractor under paragraph (c) of the INSTRUCTIONS TO OFFERORS provision. The Government reserves the right to consider any additional information on the offeror obtained through other means. Offerors that submit past performance information that is not similar in nature to the terminal operations type of work required of the solicitation will receive a neutral past performance rating.

(d) Award will be made to the offeror that represents the best value combination of performance and price.

(DESC 52.245-9F05)

SECTION C



**PERFORMANCE WORK STATEMENT
(PWS)
OPERATION AND MAINTENANCE
OF
DEFENSE FUEL SUPPORT POINT
CHARLESTON, SOUTH CAROLINA
(UY7011) (FES 02)**

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SECTION C-1.0 - GENERAL

C-1.1 General Description

This Performance Work Statement (PWS) is established to identify Contractor responsibilities for the operation, maintenance, product quality surveillance, product inventory control and accounting, security, safety, and plant protection of the Defense Fuel Support Point (DFSP) Charleston, SC.

DFSP Charleston, SC is a tank farm complex located in the Industrial Section of North Charleston, within the city of Hanahan, Berkley County on North Rhett Avenue, approximately 3/4 –mile north of the intersection of Remount Road and North Rhett Avenue, with a shell capacity of 560,000 barrels. The DFSP essentially consists of a main terminal area with seven 80,000 barrel aboveground welded-steel atmospheric tanks approximately 120 feet in diameter with aluminum honeycomb floating pans, classified in accordance with 40 CFR. The tops of each tank are covered by a geodesic dome to prevent infiltration with rainwater. The tanks and ancillary facilities are located on approximately 44 acres connected, via two three mile long above ground 18 inch pipeline systems, to a Marine terminal dock facility, located within the boundaries of the U. S. Navy Weapons Station South Annex, positioned on the west bank of the Cooper River. The terminal was constructed in 1951.

C-1.2 DFSP Mission

DFSP Charleston is responsible for receiving, storing, shipping, and accounting for DLA-owned petroleum products required in support of designated DoD activities. DFSP Charleston is a wholesale activity. A large portion of the DFSP mission involves shipment of JP-8 via a seven mile long under ground pipeline system to Charleston AFB. DFSP Charleston also provides product shipments to other assorted DoD designated activities.

C-1.3 Contract Turnover

The Contractor will receive, during the ten working days prior to the start of contract performance, assistance from current personnel, representatives from DESC and the Contracting Officer's Representative (COR) to accomplish a joint facilities turnover inspection, product testing and inventory. During the last ten working days of this contract, the incoming Contractor's personnel shall be permitted access to the terminal to observe its operation. The outgoing Contractor shall assist DESC, the COR, and the incoming Contractor to accomplish the facility turnover inspection, product testing, and inventory accounting.

C-1.4 Contract Performance

The Contractor shall monitor performance and ensure contract compliance as prescribed by the Contract Compliance Plan submitted under Clause L201.00. The Contractor shall perform tasks listed in Section C-2.0 and achieve performance standards for each task. The Contractor shall, for certain tasks, submit performance based plans to provide assurance that the Contractor will meet the performance standards while complying with applicable regulations. The Contractor shall ensure compliance with all applicable Federal, State and local laws and regulations. The Contractor is responsible for obtaining copies of all applicable laws and regulations, including future changes.

The Contractor shall establish and maintain a Workplace Drug Testing Program that is in compliance with the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" Executive Order No. 12565 dated September 15, 1986 and Section 503 of Pub. 100-71, 5 USC Section 7301 note, the Supplemental Appropriations Act for Fiscal Year 1987, dated July 11, 1987.

The COR will distribute a quarterly customer satisfaction surveys that will be used as part of the assessment of contract performance. The COR has the option to increase the frequency of the surveys or address contract compliance as needed.

C-1.5 Contractor Detailed Plans

Following contract award, the Contractor shall have 60 days, unless otherwise indicated, to submit the detailed plans listed below to the COR and Contracting Officer for review and acceptance. These plans are considered dynamic documents and shall be updated, as required, throughout the contract period.

Maintenance Plan: The plan shall clearly outline the detailed procedures for planning, programming, accomplishing and documenting maintenance and repair of equipment and facilities.

NOTE: The Charleston terminal Operation and Maintenance Manual can be utilized in conjunction with the Contractor's preparation of the Maintenance Plan.

Operations Plan: The plan shall provide comprehensive and detailed step-by-step procedures covering all requirements specified in C-2.1.

NOTE: The Charleston terminal Operation and Maintenance Manual can be utilized in conjunction with the Contractor's preparation of the Operations Plan.

Product Inventory Control and Accountability Plan: The plan shall provide comprehensive and detailed procedures to ensure compliance with the requirements of Clause I119.04, DoD 4140.25M and Section C-2.3 of the PWS.

Safety Plan: The detailed plan shall outline procedures necessary to maintain safety in accordance with applicable Federal, State, and local laws and regulations.

Security Plan: The comprehensive and detailed plan shall clearly identify staffing and procedures necessary to maintain security as outlined in Section C-2.9 and incorporate all elements of the concept plan. This plan shall be submitted within 30 days after contract award.

Training Plan: The detailed plan shall identify **Federally mandated and general required safety** training courses, length of training, training sources, **and a** brief description of the course. The employees must be trained (by job classification), the frequency of training and method of monitoring plan compliance. This plan shall include all elements of the concept plan and shall be submitted 60 days after contract award for Contracting Officer review and approval. The following table should be used as a guide for preparing the plan:

Table 1
Training Responsibility

Confined Space Entry Training	Contractor Provided
EPA Hazardous Waste Handling and Disposal	Contractor Provided for Superintendent and Assistant Superintendent
Facility Response Plan Training	Government Provided
FSC/OSC Training	Contractor Provided for Superintendent and Assistant Superintendent
Hazardous Communication Training	Contractor Provided
Hazardous Waste Operations and Emergency Response Training	Government Provided for Facility Employees other than Superintendent and Assistant Superintendent
Lock-Out Tag-Out Training	Contractor Provided
Personal Protective Equipment Training	Contractor Provided
Safe Transportation of Hazardous Materials Training	Government Provided
Terminal Safety Training	Contractor Provided

The following detailed plans submitted with the Contractor's proposal shall be in effect upon contract award. These plans shall be updated, as required, throughout the contract period.

A. Contract Compliance Plan: The Contractor shall outline his procedures for maintaining the records associated with the documentation and file maintenance for his environmental and safety plan files and records as defined in Appendix "F".

B. Product Quality Surveillance Plan

C-1.6 Contractor-Furnished Equipment and Services:

The Contractor shall provide all supplies, tools, equipment, office equipment, furniture etc., and vehicles not otherwise specified as Government-furnished and necessary by the Contractor to complete tasks outlined in Section C-2.0 or as required by all Federal, State and local laws and regulations. In addition, the following shall be provided by the Contractor:

- Petroleum Products Measurement and Sampling Equipment
- Petroleum Products Sampling Supplies (to include weighted beaker or weighted bottle holder for sampling storage tanks, tank trucks, and tank cars, Bacon Bomb Thief, an adequate supply of one quart/liter, clear glass sampling bottles with corks, an adequate supply of one gallon (4 liter) and five gallon (20 liter) epoxy coated sample cans with approved shipping containers suitable for use to ship samples of petroleum products.
- At the Contractor's expense provide the capability to **pack and ship fifty petroleum samples each 12 month contract period**
- First Aid Equipment
- Administrative supplies/Computer Supplies (**Note:** The Contractor shall provide all the terminal administrative and computer supplies to include the administrative and

computer supplies required to support the Government FAS computer network and the COR/QSR.

- Janitorial and Housekeeping Supplies and Equipment
- Tank Truck and Tank Car Seals
- Tank Truck and Tank Car Placards
- Water finding conforming to MIL-W-83779
- **Half-face Organic Vapor Respirators.** The Contractor shall provide and issue respirators. The respirators shall be issued and fit tested to the terminal superintendent and two other Contractor employees (one each) who would normally be performing task where exposure to fuel vapors might occur or be likely, or would be performing maintenance or emergency repair functions where exposures might occur. Respirators might also be utilized to prevent exposure during liquid/chemical transfers, such as the transfer of fuel additives from open containers to drums. The Contractor shall comply with the requirements outlined in OSHA 29 CFR 1910.134, Respirator Protection, with regard to medical surveillance and protection of employees using respirators.
- Detex Clock Tapes/Dials
- **Multi-RAE – Low Level Hydrocarbon Sampler Kit USA**, Part Number LLHS-10A or equal to. The Sampler Kit will include the following:
 - a. 2 speed pump
 - b. Lithium-ion battery pack with 110 VAV power adapter
 - c. Alkaline battery adapter
 - d. Protective rubber boot
 - e. Carbon filters
 - f. Water trap filters
 - g. 3" inlet probe
 - h. Water trap adapter
 - i. Lamp cleaning kit
 - j. Tool kit
 - k. Organic Vapor Zeroing Kit
 - l. 50 foot of Teflon tubing
 - m. 34 Liter cylinder mixed gas standard of 50% LEL, 50 ppm CO, 25 ppm H₂S balance air
 - n. 34 liter cylinder of 100 ppm isobutylene
 - o. 2 each 1- lpm regulator
 - p. Tubing
 - q. User Manual and training video
 - r. Each sampler kit will be packed into an unbreakable, waterproof case with foam cutouts
 - s. The Multi-RAE Sampler Kit is available from Safeware, 5641 S. Laburnum Avenue, Richmond, VA 23231, Telephone 804.222.1238; 800.359.4617; FAX 804.236.8405; POC: Mr. Jim Johnson
 - t. A twice-annual planned maintenance service contract for the Multi-RAE Sample Kit is recommended.
- **Incidental Fuel Cleanup Supplies:** The Contractor shall furnish incidental cleanup supplies for the Contractor's own use and arrange for their disposal in accordance with 40CFR Part 262.
- Services of a state approved and licensed company to furnish and apply chemicals for pest, weed, grass, and other vegetation control.

- **Contractor-Furnished Solid Waste Management and Collection Service.** The Contractor shall be responsible for the management and collection of accumulated trash, to include wind blown trash and debris. Under no circumstances shall the Contractor permit or allow accumulated trash to be burned or disposed of within the terminal. The Contractor shall arrange for a solid waste management collection service and actively participate in and support local Government sponsored recycling and solid waste management programs. **Note: The Contractor shall be responsible for the payment of any fees or tax accessed by the local authorities (Hanahan, Berkley County) which are associated with the Contractor's arrangement for trash removal services and support of local Government sponsored recycling and solid waste management programs.**
- The Contractor shall maintain the permanent Facility Identification Sign (Government-furnished) posted at the terminal entrance. The sign is constructed of a weatherproof material with the name of the terminal and the words "Operating Contractor."
- The Contractor **shall provide and maintain** permanent pipeline identification signs posted along the 4.5 mile long pipeline system from the facility to Charleston Air Force Base. The approved language for the signs is found in the Charleston Terminal Operation and Maintenance Manual.

Communication Service Requirement:

- A minimum of one outside commercial trunk line shall be provided at the main terminal office.
- **Contractor-furnished Internet Connection and Computer System:** A dedicated commercial trunk line in the main terminal operations area to include a dial-up service to provide access to the Government's Property Control and Systems Records in compliance with paragraph (a) of Clause I119.04. The Contractor-furnished computer system shall meet the current commercial standards for a computer system capable of accomplishing the data reporting and records keeping required by (1) the Fuels Automated System (FAS); (2) maintaining the data collection and records keeping associated with product quality surveillance (i. e., product analysis and test reports; and (3) the document collection and records keeping associated with the Contractor's preventive maintenance program, etc).
- **Fuel Automated System (FAS):** The Contractor shall input inventory and sales data of Government-owned product directly into the Government's Fuel Automated System (FAS) utilizing the Contractor-furnished computer system via the Contractor furnished Internet access (with static IP address capability) or creation of a dial-in account to the DESC FAS web server. Additional data and requirements can be found in Clause I119.04 and on the Internet at "<http://ports2.desc.dla.mil/manuals/REF1111D.htm>".
- The Contractor shall provided sufficient **intrinsically safe** communication equipment to be used by the Contractor's personnel and the terminal QSR while loading/offloading tankers and barges, pipeline operations, pipeline patrols, and other activities as deemed necessary to ensure compliance with **33CFR, Part 154.500**. The Contractor shall include a detailed description (i. e., number of instruments, base station, number of batteries, number of battery chargers, etc) of the Intrinsically safe communication equipment information, to be provided, with his proposal.
- Cellular phone with service to be utilized by the guard personnel in order to maintain communication while conducting his guard duties, as well as providing the capability to call for assistance in the event of an emergency. The Contractor shall provide the

cellular phone number and any change to the DESC, DESC-Houston and terminal QSR. The Contractor shall ensure that the cellular phone is not utilized in hazardous areas of the terminal or when there is a fuel spill.

- Must be signed onto Power Track for electronic bill processing.
- Photocopy type reproduction capability. Capable of handling letter size and legal size copies. Including sufficient quantities of reproduction paper to meet the Contractor's and QSR/COR copy requirements.

Vehicles Requirement:

- The Contractor shall provide **all** vehicles required to operate and maintain the terminal to include the transportation of the terminal personnel to their specific work sites during the course of their daily functions.
- **In addition to the vehicles that are required, by the Contractor, to operate and maintain the terminal, the Contractor shall provide one Heavy-Duty Four-Wheel Drive Vehicle (minimum 3/4 ton rating) with trailer hitch, wiring, licensing, and needed accessories to provide the capability for towing terminal boat, spill containment trailer, the tank bottom water recovery trailer, and for transporting other terminal equipment and the oil spill control/cleanup equipment (oil scavenger system, fire foam cart, fire suppression equipment, etc.). The vehicle shall be stationed at the terminal and used for hauling the above equipment in order to provide an immediate response to terminal emergencies and to prevent and/or contain any petroleum spill, leak, or seepage.**
- Supply all fuel (gasoline, diesel, etc.) oil, and maintenance for the heavy-duty vehicle as well as for all other Contractor-furnished vehicles.
- **Trailer Mounted Faudi Filter Assembly:** The Government operates and maintains a trailer mounted Faudi Filter assembly at the Charleston terminal. The Faudi Filter assembly is normally stored, at the Charleston terminal, and when required the Faudi Filter assembly is shipped via Government-furnished transportation. The terminal Contractor must be prepared to move the Filter assembly, within the Charleston terminal, and assist with loading the Filter assembly onto the Government-furnished transportation for shipment. The Contractor shall be required to perform minor preventive maintenance on the Faudi filter trailer. The minor preventive maintenance functions will consist of tire pressure maintenance, spot painting, replacing running light bulbs, replacing reflectors, occasional trailer washing to remove road dirt and debris.

C-1.7 Planning Information

For the purposes of estimating workload, the Contractor shall use a projected 3,500,000 barrels of combined throughput for each 12 month contract period. **Through-put is defined as receipts plus shipments divided by two.** Projected workload information for specific fuel operations is found in Section C-2.0 of the PWS.

FIGURE 1
Projected Throughput

Receipts/Shipments	Through-put Quantity in Barrels
Through-put: equals receipts plus shipments divided by two	3,500,000

C-1.8 Personnel Staffing Objectives

The Contractor shall provide sufficient personnel staffing to accomplish the terminal functions and tasks identified in Section C-2.0. The Contractor's staffing and personnel objectives shall be flexible and capable of meeting the demands of simultaneous operations. The most frequent simultaneous operations involve tank truck receipts and shipments, tanker/barge receipts and shipments, and pipeline shipments via the terminal pipeline connection to Charleston Air Force Base. **The Contractor shall schedule personnel so that no individual works more than 12 hours, followed by an 8 hour break, except in emergency situations as approved by the COR.**

C-1.9 Normal Workday Operations

Operating hours are outlined in Table 1. Normal workday operations include product receipts, shipments, transfers, blending, quality surveillance, preventive and corrective maintenance, security and supporting functions as described in Section C-2.0. All costs that may be associated with these operations shall be included in the price for CLIN 0001.

TABLE 2
Terminal Operating Hours

DFSP Charleston Main Terminal	
Pipeline Operations/Quality Surveillance	24 hours per day; 7 days per week
Tanker/Barge Operations (Receive/Ship)	24 hours per day; 7 days per week
Tank Truck/Tank Car Fill Stand Operations	6:00 a.m. - 4:00 p. m, 5 days per week*
Tank Vehicle product Receiving/Shipping Operations (See Section C-2.1.2.1)	24 hours per day; 7 days per week
Tank to Tank Transfers Operations	6:00 a.m. - 4:00 p. m., 5 days per week*
Security	24 hours per day, 7 days per week
All Other Terminal Functions	6:00 a.m. - 4:00 p.m., 5 days/week*
*5 days per week is defined as Monday through Friday, excluding weekends and holidays as stipulated in the wage determination.	

C-1.10 Personnel Qualifications

The Contractor shall ensure that personnel assigned to all tasks have the requisite knowledge and skills to meet minimum performance standards and comply with all applicable Federal, State and local laws and regulations. They shall be able to speak, read and comprehend English (be literate) to the extent of reading and understanding printed regulations, detailed written orders and operating procedures, training instructions and materials and be able to compose reports which convey complete information.

C-1.11 Key Personnel

Corporate Fuels Officer: To assure continuity between the terminal and the Contractor's home office, the Contractor shall employ during the life of this contract an executive who can make decisions concerning this contract; who has a complete understanding of the terms and conditions of this contract; and who has experience in the operation and maintenance of bulk petroleum storage terminals.

Terminal Superintendent: Shall have a minimum of six years of specialized experience in fuel terminal operations including receiving, storing and shipping petroleum products via tank truck, pipeline and tanker/barge. This experience shall include operation and maintenance of a bulk petroleum storage terminal; receiving and shipping of petroleum products via pipeline, barges, tankers and tank trucks; and maintenance and repair of bulk petroleum storage terminals.

The Terminal Superintendent shall have a minimum of three years of supervisory experience gained within five years just prior to the contract start date. Of these three years, two years of experience shall be specialized supervisory experience in fuel terminal operations with emphasis in terminal maintenance, operations and environmental compliance. One year may be general supervisory experience.

Education may be substituted for all specialized experience. In order to substitute education for specialized experience, the minimum requirement is a Masters Degree in petroleum, industrial or business-related fields.

The Terminal Superintendent must demonstrate qualifications as a Facility Spill Coordinator (FSC) and On-Scene Coordinator (OSC) with a certificate of completion of the Texas Engineering Extension Service Inland Oil Spill Control Course at Texas A&M University or an equivalent course. The Terminal Superintendent must possess current certification for 24 hours of training for Hazardous Waste Operations and Emergency Response (HAZWOPER) as required in subparagraph (q)(6)(v) of 29 CFR 1910.120 for an On-Scene Incident Commander. The 24 hour training requirement may be waived provided he has met the training requirements to qualify him as the FSC or OSC, and he has current certification for the First Responder, Operations Level (HAZWOPER) training. The Terminal Superintendent must be qualified in the management of hazardous waste which may be demonstrated with a certificate of completion from the Texas Engineering Extension Service Hazardous Waste Management course at the Texas A&M University, or an equivalent course about the EPA Hazardous Waste Handling and Disposal Program.

The Terminal Superintendent shall not be assigned as a collateral function.

Assistant Superintendent: Shall have a minimum of three years experience in fuel terminal operations engaged in receiving, storing and shipping petroleum products via tank truck, pipeline and tanker/barge. This experience shall include operation and maintenance of a bulk petroleum storage terminal; receiving and shipping of petroleum products via pipeline, barges, tankers, and tank trucks; and maintenance and repair of bulk petroleum storage terminals.

The Assistant Terminal Superintendent may be assigned as a collateral function.

The training identified above for the terminal superintendent, also applies to the assistant terminal superintendent; however, HAZWOPER training be attained within the first 30 days of the contract start date, Hazardous Waste training within the first 60 days, and the FSC/OSC training within the first 90 days.

The Contractor agrees to assign to the contract those persons whose resumes and personnel qualifications statements were submitted as required to fill the requirements of the contract. No substitution or addition of personnel shall be made except in accordance with this contract.

The Contractor agrees that during the first 60 days of the contract performance period, no personnel substitutions will be permitted unless such substitutions are necessitated by an individual's sudden illness, death or termination of employment. In any of these events, the Contractor shall promptly notify the Contracting Officer and provide the information required below.

If personnel for whatever reason become unavailable for work under this contract for a continuous period exceeding 30 work days or is expected to devote substantially less effort toward the work than indicated in the proposal, the Contractor shall propose a substitution of such personnel in accordance with the following:

All proposed substitutions shall be submitted, in writing, to the Contracting Officer at least 15 days prior to the proposed substitution. Each request shall provide detailed a explanation of the circumstances necessitating the proposed substitution, a complete resume for the proposed substitute and any other information required by the Contracting Officer to approve or disapprove the proposed substitution. All proposed substitutes (no matter when they are proposed during the performance period) shall have qualifications that are equal to or higher than the qualifications of the person being replaced.

In the event a requirement to increase the specified level of effort for a designated labor category, but not change to the overall level of effort of the contract occurs, the Contractor shall submit to the Contracting Officer a written request for approval to add personnel to the designated labor category. The information required is the same as that required above. The additional personnel shall have qualifications greater than or equal to at least one (1) of the individuals proposed for the designated labor category.

The Contracting Officer shall evaluate requests for substitutions and addition of personnel and promptly notify the Contractor, in writing, whether the request is approved or disapproved.

If the Contracting Officer determines that suitable and timely replacement of personnel who have been reassigned, terminated or are unable to perform under the contract is not reasonably forthcoming or that the resultant reduction or productive effort would impair the successful completion of the contract, the contract may be terminated by the Contracting Officer for default or for the convenience of the Government, as appropriate. Alternatively, at the Contracting Officer's discretion, if the Contracting Officer finds the Contractor to be at fault for the condition, he may equitably adjust (downward) the contract price or fixed fee to compensate the Government for any delay, loss or damage as a result of the Contractor's action.

C-1.12 Additional Personnel Needs

Liquid Fuel Distribution System Operator (as defined in the Service Contract Act, Directory of Operations): Shall have a minimum of one-year experience in storage and distribution of bulk petroleum. Lead Operators shall have a minimum of two years experience.

Liquid Fuel Distribution System Mechanic (as defined in the Service Contract Act, Directory of Operations): The Liquid Fuel Distribution System Mechanic shall have a minimum of three years experience.

ADP Qualified Computer Operator: (as defined in the Service Contract Act, Directory of Operations)

The ADP Level III Qualified Operator shall have a minimum of three years experience. **Note:** *The ADP Operator must be capable of completing a security background check and meet the ADP Level III non-critical/sensitive classification requirements necessary to obtain a log-on identification and password to accomplish FAS data entry.*

C-1.13 Notification of Correspondence and Visits

The Contractor shall immediately provide the Contracting Officer, the Defense Energy Office (DER) and COR with copies of all correspondence and notification of any visits relating to Federal, State and local officials/agencies.

C-1.14 Defense Energy Office (DEO)

The DEO is responsible for defining designated DoD customers within the region. The DEO has complete jurisdiction over the movement of fuel. The DEO will define the customers and quantities of fuel to be moved. Daily coordination of fuel movement shall be left to the Contractor, as long as customers and quantities match the Source Identification and Ordering Authorization (SIOATH). The Contractor shall refer all problems pertaining to transportation (such as demurrage, routing and loss of product while in transit, furnishing tank trucks, etc.) to the appropriate DEO office and notify the COR. The Contractor shall schedule tank trucks and barges to be loaded with the carrier designated by the DEO. The DEO will notify all activities to be supported and a copy of this notification will be furnished to the Contractor. This notification will also serve as a release document for the Contractor and may be in SIOATH or other format.

SECTION C-2.0 - SPECIFIC TASKS (CLIN 0002 – FIRM FIXED PRICE)

Unless otherwise specified within this Section C-2.0, all functions described herein shall be included in the firm fixed price for CLIN 0001. Please note that the firm fixed price shall include all effort required to recognize and initiate response actions for those supplies/services that are reimbursable under CLIN 0002, 0003, 0004, and 0005.

C-2.1 Terminal Product Operations

Terminal fuel operations in support of designated DoD activities are defined as:

Terminal Product Operations - Receipts
Terminal Product Operations - Shipments
Terminal Product Operations - Storage

The Contractor shall submit comprehensive operational plans with detailed procedures as outlined in Figure 2, no later than 60 days after the contract start. These plans will be reviewed and approved by the Contracting Officer. The detailed plans shall include the number of proposed employees identified by the wage determination and job classification and shall be in accordance with the staffing plans addressed in Section L.

FIGURE 2
Required Contractor Operational Plans

Petroleum Product Receipt Procedures
Petroleum Product Shipment Procedures

Requirement: All operating personnel shall be able to recognize and handle potential hazards to avoid dangerous exposure and to develop safe working habits, practices and skills. All personnel shall have access to operational plans.

Minimum Performance Standards:

100% documentation and compliance with Government approved Operational Plans.

100% documentation verifying all operations are conducted in accordance with Government approved staffing charts.

The Contractor shall be responsible for performing fuel operations and safeguarding fuel supplies during normal and adverse conditions.

C-2.1.1 Terminal Tank Farm

DFSP Charleston is tasked with receiving, storing and shipping petroleum products (normally JP8) to designated DoD customers: DFSP Charleston is comprised of the following main components:

Tanks:

The Charleston terminal consists of seven aboveground welded-steel atmospheric storage tanks approximately 40 feet in height by 120 feet in diameter with aluminum honeycomb floating pans, classified in accordance with 40 CFR. The top of each tank is covered by a geodesic dome to prevent the infiltration with rainwater. Each storage tank is equipped with locally mounted Jursand Measurement mechanical level indicators. Each level indicator has a test knob to ensure that the float mechanism is freely moving.

Each storage tank has a steel floor with an inverted cone center design. The storage tanks are constructed on a ring wall foundation, with a geomembrane liner, leak detection and cathodic protection system within the confines of the ring wall. In addition, the tanks have an interior coating system.

Each storage tank has an 18-inch pipeline connection for receiving product from the marine terminal. Each tank also has a 16-inch pipeline connection to the Charleston Air Force Base (AFB) pipeline system manifold and pumping system, the Charleston terminal tank car manifold and pumping system, Charleston terminal tank truck manifold and pumping system, and a gravity flow capability to the marine terminal vessel loading system. The storage tanks are equipped with high-level alarms, but not high-level cutoff devices.

Each storage tank is equipped with a connection for draining water (for additional information see Section 4.2.3 of the DFSP Charleston Operation & Maintenance Manual). Also the Best Management Plan (BMP) addendum to the SPCC Plan should be referenced for detailed operating procedures for draining water from dike basins.

Marine Terminal Pipelines System:

The Marine terminal pipeline system consists of two Government-owned 18-inch pipelines, approximately 3 miles long connecting the main Charleston terminal to the marine terminal which is located on the U. S. Navy Weapons Station Annex. The two eighteen-inch pipeline systems are installed on concrete piers which are approximately three feet high. Each of the 18-inch pipeline systems are equipped with a Cathodic Protection system and are rated at 10,000 barrels per hour.

Truck Fill Stands:

The two covered commercial tank truck fill stand facilities are capable of loading four commercial tank trucks simultaneously, with JP-8, at a rate of 600 GPM.

C-2.1.2 Terminal Product Receipts

All JP8 is received, at the Charleston terminal, by tanker/barge and tank truck. All JP8 receipts shall be sampled and tested in accordance with Section C-2.2.

FIGURE 3
DFSP Charleston Projected Annual Receipts

Aviation Turbine Fuel	Mode of Receipt	Quantity Received Barrels)
Grade JP8	Tanker/Barge, Tank Truck, Tank Car, and Tank Vehicles	3,500,000

C-2.1.2.1 Tank Vehicle Receipts From The U. S. Army War Reserve Support Command, Combat Equipment Group-Asia (AWRSPTCMD, (CEG-A)) : The location of the CEG-A facility is in an area classified as a wet land, therefore, all petroleum tank vehicles off-loaded from a vessel, that has completed it's pre-positioned deployment cycle, must be off-loaded within 24 hours to minimize potential environmental damage. The Charleston terminal Contractor will be provided 72 hours advanced notice of the actual time and date he will be required to receive and off-load the tank vehicles. The following procedures are required to ensure that the tank vehicles are received and de-fueled:

- Provide sufficient terminal personnel as necessary to operate the terminal tank truck receiving facilities to receive and off load the tank vehicles.
 - Receive bulk petroleum which the specification use limits, as represented by the specification test documentation performed 90 days prior to the scheduled off-load.
 - When requested; provide for receipt of product from the petroleum tank vehicles off-loaded from the APS-3 vessels with-in 24 hours.
 - When notified; the Contractor shall provide tank vehicle receipt capabilities 24 hours per day, to include weekends and Holidays, not to exceed 24 tank vehicles per day.
- The Contractor shall not permit either empty or loaded CEG-A tank vehicles to be stored at the terminal.**
- The Contractor shall refer any and all fuel quality problems to the terminal QSR which will affect the scheduled receipt of the tank vehicle.

Requirement: The Contractor shall test, receive and inventory all authorized products. The Contractor shall immediately notify the COR of any operational discrepancies. All individual bulk deliveries of petroleum products in excess of 3,500 gallons shall be corrected to standard temperature of 60 degrees Fahrenheit in accordance with the appropriate API tables. The Contractor shall inject fuel additives (e.g., FSII, SDA, and corrosion inhibitor) as required to the levels specified in the product specification, unless otherwise directed by DESC/DEO/COR. The Contractor shall prepare all documents required for product receipt IAW Clause I119.04. The Contractor shall allow each vessel to unload safely at a maximum rate commensurate with terminal capability and shall load safely at the maximum rate commensurate within the facilities/vessel capability. **(Note: Please see the current edition of Table IX, MIL-STD-3004 for product testing requirements. Table IX of MIL-STD-3004 is available on the DESC Home Page)**

Minimum Performance Standard: No fuel spills due to Contractor fault, negligence or misconduct. No Contractor caused demurrage charges during tanker, barge, or tank truck receipt operations. No quantity variations outside the tolerance defined in Appendix D.

C-2.1.3 Terminal Product Shipments

Fuel is shipped via pipeline and tank truck.

Pipeline shipments are to Charleston Air Force Base via the Charleston terminal to Charleston AFB pipeline system.

Tank truck shipments are to a variety of designated DoD customers: Shaw AFB, DFSP Fort Stewart, MCEntire ANG Base, Savannah IAP ANG, Pope AFB, Simmons AAF, NC, DFSP Hunter AAF, Robbins AFB and others. The tank truck distribution changes annually depending on the DESC bulk product purchases which usually occur in the month of April each year.

Figure 4 presents the annual workload projection for fuel shipments. The projection is based on an average of historical mode and numbers of shipments and a projection for the out-years. See Exhibit 4 for Historical Shipments Data.

FIGURE 4
DFSP Charleston Projected Annual Shipments

Aviation Turbine Fuel	Mode of Shipment	Quantity Shipped Barrels
Grade JP8	Tank Truck, Tank Car, Tank Vehicle and Pipeline	3,500,000

Requirement: The Contractor shall issue all authorized products. The Contractor shall immediately notify the COR of any operational discrepancies. All individual bulk deliveries of petroleum products in excess of 3,500 gallons shall be corrected to standard temperature of 60 degrees Fahrenheit in accordance with the appropriate API tables. The Contractor shall coordinate Commercial Carrier delivery 24 hours in advance to avoid emergency transportation charges. The only exception shall be customer-initiated requests for transportation of fuel within a 24-hour period. The Contractor shall prepare all documents required for product shipments.

Minimum Performance Standards: All petroleum products shall be shipped on-specification, unless authorized by the Contracting Officer. No fuel spills due to Contractor fault, negligence or misconduct. No quantity variations outside the tolerance as defined in Appendix D. No Contractor caused demurrage charges during tank truck issue operations. No operational delays in excess of one hour; time commences once the truck is ready to receive.

C-2.1.4 Terminal Product Storage

The tables shown in Appendix A summarize the storage tanks, their locations and capacities for each product.

Tank to tank transfers may be necessary to accommodate operational requirements. Examples include: emptying a tank for maintenance, increasing the volume of a tank scheduled as an issue tank, blending off non-specification fuels, or transfers associated with additive concentration levels. With the exception of COR directed transfers, decisions on tank-to-tank transfers are left to the discretion of the Contractor however, all tank to tank product transfers shall be coordinated with the QSR/COR.

Minimum Performance Standards:

No fuel spills due to Contractor fault, negligence or misconduct.

No Contractor caused demurrage charges during tanker, barge, or tank truck receipt operations.

No quantity variations outside the tolerance defined in Appendix D.

C-2.2 Terminal Product Quality Surveillance

No petroleum products shall be received or shipped without first determining and confirming conformance with product quality requirements. No conveyance/container shall be loaded until it is inspected by a qualified person and deemed suitable to carry the intended product **(Conveyance loaded will be inspected IAW Table XXIII of MIL-STD-3004)**. Products shall be shipped on a first-in, first-out basis unless otherwise approved or directed by the COR. Non-conforming product shall be reported to the COR immediately. Anytime product is received into a tank, the tank's contents shall be suspended from issue pending quality conformance sampling and testing. The Contractor shall ensure that certificates of quality conformance (test reports) are maintained on file for all on-hand fuel stocks.

C-2.2.1 Sampling

The Contractor shall take all samples and deliver samples requiring Type A or B testing to the commercial laboratory designated by the COR **(the Contractor shall prepare product samples for shipping IAW DOT HM 126 procedures)**. The Contractor shall test all Type C samples on site. Procedures for sampling storage tanks, additives, blend tanks, lines and conveyances/containers shall be in accordance with API Manual or Petroleum Measurements Standards (MPMS), Chapter 8, Section 1, "Manual Sampling of Petroleum and Petroleum Products" and/or Section 2, "Automatic Sampling of Petroleum and Petroleum Products." Procedures include location of sample taken, frequency, quantity, minimum tests required on sample and sample retention procedures. Samples shall be retained for 90 days unless otherwise instructed. The minimum sampling and testing requirements are provided as follows:

TABLE 3
Minimum Sampling and Testing Requirements

SERIAL	LOCATION OF STOCKS	TYPE STORAGE	WHEN SAMPLED	TYPE SAMPLE (See Note 1)	TESTING REQUIRED (See Note 2)	REMARKS
1	Upon procurement at: refineries, blending installations, tank farms, terminals, etc.,	Bulk	After establishment of new batch.	Upper, Middle and Lower Composite or All-Level Composite from each storage tank.	A	
2 /	Storage Tanks and Pipelines, for Pipeline Shipments or Vessel Loading of Government Stocks.					
2a	Storage tanks	Bulk	Before Shipment or Loading	Upper, Middle and Lower Composite or All-Level Composite from each storage tank.	Appearance, API Gravity, Color, Flash Point, Filtration Time, FSII, Water Reaction (as applicable)	Government-owned stocks in tanks which have been tested previously within 90 days need only Type C. Referee sample will be retained.
2b	Pipelines	Bulk	Immediately after Start of Shipment or Loading	Line Sample	C	
2c	Pipelines	Bulk	Hourly After Starting Shipment or Loading	Line Sample	Visual	
2d	Pipelines	Bulk	During Loading or Shipment	Representative Line Composite IAW API MPMS, Chapters 8.1 or 8.2.	Retained Composite	Sample to be retained as Referee. Testing to be conducted will be based on the situation.

SERIAL	LOCATION OF STOCKS	TYPE STORAGE	WHEN SAMPLED	TYPE SAMPLE (See Note 1)	TESTING REQUIRED (See Note 2)	REMARKS
3	Vessel Loading					
3a	Tankers and Barges First-In	Bulk	1 Hour after Start of Loading	Spot	C-Plus Particulate	
3b	Tankers and Barges	Bulk	After Loading	All-Level from each compartment	Appearance & Density [For CONSOL: C]	For Gov't Owned Product Only
				Volumetric Composite of Cargo Tanks	B-1	Vessel may sail after "C" Tests; Remainder of tests to be completed before arrival at next Load or Discharge Port.
3c	Yard Oilers	Bulk	After Loading	Volumetric Composite of Cargo Tanks	API, Flash, BS&W	Normally Yard Oils are in dedicated service and carry ships' fuels.
4	Vessel Discharge					
4a	Tankers and Barges (Multi-Product Cargo)	Bulk	Prior to Discharge	All Level from each Tank	Appearance and Density	If on-spec, discharge authorized.
				Volumetric Composite of Each Cargo on board.	B-1	These tests will be performed prior to or during discharge of cargo. In the event the capability for testing does not exist at the discharge point, a composite sample from the vessel will be retained, type B-1 tests performed on an all-level sample taken from the receiving tank. If receiving tank fails spec requirements, perform B-1 tests on the tanker retain composite sample to determine the cause

SERIAL	LOCATION OF STOCKS	TYPE STORAGE	WHEN SAMPLED	TYPE SAMPLE (See Note 1)	TESTING REQUIRED (See Note 2)	REMARKS
						of the off-spec problem.
	Tankers and Barges (Single-Product Cargo)	Bulk	Before Discharge	Composite sample of ship or barge tanks.	Type C	Discharge is authorized after conformance with Type C tests. Retain composite sample until the receiving tank analysis is complete. If product fails, perform Type B-1 tests on retained composite to help determine the cause of the off-specification problem.
4b	Dock/Discharge Manifold Header	Bulk	During discharge	Sample IAW API MPMS, Chapter 8, commencing one half hour after start of discharge and each hour after until completion of the discharge. One-half quart to be taken each time. Sample to be composited after completion of discharge. Also, one gallon at one hour, midpoint and one hour prior to completion.	Retained Composite, Particulate	Retained for Referee Tests.
	Dock/Discharge Manifold Header		During Discharge	For split cargo discharges where one product is JP5, JP8 or F76 and other product is JP4, MOGAS or AVGAS, a dock header sample will be	Flash Point or Explosively	

SERIAL	LOCATION OF STOCKS	TYPE STORAGE	WHEN SAMPLED	TYPE SAMPLE (See Note 1)	TESTING REQUIRED (See Note 2)	REMARKS
				taken during discharge of the JP5 or JP8 or F76 one half hour after start of discharge and hourly thereafter.		
4c	After receipt of fuel by waterborne transport.	Bulk	After receipt of fuel.	Upper, Middle and Lower Composite or All-Level Composite.(from each storage tank)	Type B-1	Also, JFTOT after JP4/JP8 receipt by tanker
5	Pipeline Receipts.					
5a	After receipt of fuel by pipeline systems used for more than one product.	Bulk	After Receipt of Fuel	Upper, Middle and Lower Composite or All-Level Composite. (from each storage tank)	Type B-1	
5b	After receipt of fuel through a dedicated system.	Bulk	After receipt of fuel.	Upper, Middle and Lower Composite or All-Level Composite. (from each storage tank)	Type C, except on initial filling or change of grade. Then, B-1 would be required.	
6	Transfers within Installation or Depot					
6a	Through a dedicated system.	Installations and Depots	After receipt of fuel	Upper, Middle and Lower Composite or All-Level Composite.	Type C	Samples will be retained for two months for referee purposes.
7	Dormant	Bulk	Periodically, as	Upper, Middle and	B-2 or A	a. Separate samples; upper,

SERIAL	LOCATION OF STOCKS	TYPE STORAGE	WHEN SAMPLED	TYPE SAMPLE (See Note 1)	TESTING REQUIRED (See Note 2)	REMARKS
	Stocks wherever Located.		required by Table 5	Lower Composite or All-Level Composite. (see Remarks)	(see Remarks b.)	middle and lower, shall be taken and tested to establish homogeneity. If homogenous, these samples shall be mixed for required tests. If not homogeneous, perform a B-2 on each layer of product. Additional testing may be performed. b. At the discretion of the owning or custodial authority, having regard to type of product, age of stock, conditions of storage, etc.
8	Filling Points for road and rail tank car containers or other equipment.	Bulk	Daily on first container filled and on changeover to fresh feed tank after completion of line displacement from the fresh feed tank.	Line sample	Type C	
9	In rail tank cars and road tank vehicles and refuelers used in over the road transportation	Bulk	Both after loading and before discharge	All level sample from the rail car or vehicle.	Appearance on each compartment "C" on composite	
10	Packaged Fuel stocks wherever	Packaged	(a) Periodically as required by Table 2 (see	Representative sample IAW API MPMS, Chapter 8	Type B-2 (see Note 4)	

SERIAL	LOCATION OF STOCKS	TYPE STORAGE	WHEN SAMPLED	TYPE SAMPLE (See Note 1)	TESTING REQUIRED (See Note 2)	REMARKS
	located		remark (a). (b) When contamination or deterioration of product or container is suspected. (c) When identity is uncertain			
11	Refueler trucks, skid mounted refuelers or other dispensing equipment.	Bulk	(a) Daily (b) Monthly	Line sample. Note: After recirculating of fuel	(see Remarks and Note 3)	(a) Visual check for appearance and Water & Sediment. (b) Lab analyses for Water & Sediment
12.	Waste Oil barge or tank truck	Bulk	Prior to transfer to bulk FOR tank	All level	"Oil," flash, TOC, PCB, AS CR, CD Pb, "Water," Title 22, pH	
13.	FOR Storage Tank	Bulk	After receipt	Upper, middle, lower, & composite	Type A	
14.	FOR Storage Tank	Bulk	6 month dormant	Upper, middle, lower, & composite	Type A + Title 22 & FSO verify	
15	Waste Oil Holding Tanks	Bulk	Prior to acceptance at Waste Oil Reclamation Facility	All level	Representative sample Oil & grease pH	
16.	Reclamation Plant	Pretreatment process	Prior to draining to sewer system	Representative sample	Oil & grease pH	

**TABLE 4
LEGEND**

Type "A" Test	Complete specification inspection tests.
Type "B-1" Test	Partial analysis comprising the checking of principal characteristics most likely to have been affected in the course of moving the product
Type "B-2" Test	Partial analysis to verify characteristics susceptible to deterioration because of age.
Type "B-3" Test	Partial analysis for contamination; in particulate, for controlling the re-injection of pipeline interface products
Type "C" Test	Specific Gravity, Flash Point, Color and Appearance, including visible sediment and water.
Note (1)	The methods of sampling to be used are those prescribed by API (see Section C-2.4.1)
Note (2)	Where flash point tests are required, a vessel composite(s) shall be run in lieu of each individual tank
Note (3)	The average particulate content of the 3 fuel samples should not exceed 8 mg/gal (2 mg/L); however, the first and last samples are obtained under severe discharge conditions and may show high particulate content. Solid contamination while extremely objectionable is a physical contaminant which can be removed under proper conditions with proper equipment and since the product at this point is Government owned, discharge operations will not be discontinued for this reason. The Contracting Officer, Defense Energy Support Center and the Quality Assurance representative at the loading point will be advised, however, of any high particulate results obtained, for future planning purposes and possible cleaning action necessary to the vessel involved. This note is not applicable to internal Navy transfers.

C-2.2.3 Testing

The Contractor shall conduct all type C testing required. Calibration of testing equipment required under the provisions of this contract shall be covered in the Product Quality Surveillance Plan. Tables 3 through 5 outline the minimum frequency for testing petroleum and related products by broad category. The frequency of testing may be increased by the COR as required.

Considerations for increased testing are conditions of storage, age of stock and type of product. When a dormant product is tested, a record of the results shall be maintained to provide a basis for determining product deterioration. Whenever consecutive results indicate possible deterioration, testing frequency shall be increased. Report the findings to the COR for further action. This is especially important for a property such as color, which presents no operation problem, but may be an indicator of possible deterioration. Individual performing product quality testing shall be properly trained and qualified. Type A and B testing will be performed by commercial laboratories. All costs associated with Type A and B testing will be funded directly by DESC. The Contractor shall report any non-responsiveness of the commercial laboratory to the COR immediately for resolution. All laboratory reports shall be reviewed and kept on file to ensure compliance with specification requirements.

TABLE 5
Minimum Frequency for Testing Petroleum Products

PRODUCT DESCRIPTION	MINIMUM TESTING (Number of Months)	FREQUENCY (Number of Months)
Turbine Fuels, Aviation Grade JP8	Bulk 6	PACKAGED 12

TABLE 6
Testing Required, Aviation Turbine Fuel 1

PROPERTIES	B-1 TEST	B-2 TEST	B-3 TEST	C TEST
Water and Solids (Visual) 1/	X	X	X	X
Color (Visual)	X	X	X	X
Specific or API Gravity	X	X	X	X
Solids (Millipore)	X	X	X	
Distillation	X	X	X	
Copper Strip Corrosion	X	X	X	
Freezing Point	X	X	X	
Existent Gum	X	X	X	
Flash Point	X	X	X	X
Water Reaction	X	X	X	
Lead Content (If contamination with leaded fuels suspected)	X	X	X	
Fuel System Icing Inhibitor	X	X	X	
Filtration Time (JP8)	X	X	X	
Water Separation Index (JP8) 2/ 3/	X	X	X	
Conductivity (JP8) 4/	X	X	X	
Thermal Stability		X		
Color (Saybolt)		X		
Acid Number		X		

TABLE 7
NOTES

1. Clean and bright and free of non-dissolved water. Obtain sample in a clear round one quart glass bottle, swirl the bottle vigorously so a vortex is formed. Visually check for sediment at the point of the vortex. If sediment is visible, a spot larger than 3 mm in diameter indicates corrective action should be taken to prevent the delivery of contaminated fuel.
2. If the capability does not exist to perform this test at the terminal, a sample will be sent to the nearest service laboratory that does have the capability. In the event operational necessity dictates issue of product before results are obtained from the service laboratory, shipments may be made; however, when laboratory results indicate failure on a recurring basis, notify COR.
3. Water separation index, modified, testing is not performed if the fuel contains conductivity additive (ASD).
4. If fuel contains conductivity additive (ASD), conductivity readings should be taken within two minutes of sampling.
5. Product stored in collapsible containers shall be tested every month as a minimum.

C-2.2.4 Record Keeping and Reports

The Contractor shall be responsible for maintaining detailed sampling and testing logs. Each storage tank shall have a current analysis test report on file. Customers shall be provided copies of tank test reports upon issuance of product if requested. Historical product quality records shall be maintained. All laboratory reports shall be reviewed and kept on file for the duration of the contract to ensure compliance with specification requirements. These reports shall be turned over to the Government at the end of the contract.

Workload Projection

100% sampling of all product receipts, static storage, transfers and shipments. 100% Type C testing. Type A and B tests will be conducted by commercial laboratories as indicated by the COR. The Contractor is responsible for delivery and monitoring the turnaround time of the commercial laboratory testing.

Requirement

Quality of all petroleum products received, stored and shipped meets specification requirements. Quality of all petroleum products shall be verified as suitable for their intended use. Records and petroleum samples shall be maintained to resolve quality concerns. The COR shall be notified immediately of any fuel sample failure prior to fuel receipt, shipment or custodial transfer. Samples representing incoming and outgoing shipments of Government-owned products at the terminal shall be properly marked by the Contractor as to product, source, and date taken and shall be stored by the Contractor in the designated sample storage area. The Contractor shall retain such samples as required above.

Minimum Performance Standards

100% sampling and testing prior to product receipts, during and after all receipts; shipments; and product transfers. No tanker discharges are to begin prior to the completion of the initial sampling and testing to verify product quality conformance. No delays in sampling and testing which result in demurrage charges.

Regulations

API Manual of Petroleum Measurement Standards (MPMS) Chapter 8; Section 1 "Manual Sampling of Petroleum and Petroleum Products" and Section 2, "Automatic Sampling of Petroleum and Petroleum Products."

C-2.3 Terminal Product Inventory Management and Reporting

The DEO is responsible for establishing authorized customers and quantity of fuel to be supplied by SIOATH. The Contractor is responsible for daily planning and scheduling of shipments and receipts. The Contractor shall monitor the movement of fuels continuously and report as required. This shall include tracking customer requests for fuel shipments by Tank Truck, Tank Car, Pipeline and monitoring tanker arrivals as scheduled by DESC.

The Contractor shall be responsible for updating the automated accounting system to provide information to DESC and the DEO on current inventory levels IAW Clause I119.04. Any anticipated fuel shortages, based on customer requests, shall be reported to the COR immediately.

Workload Projection: 100% inventory, control and accountability.

Requirement: All products shall be received or shipped as required for designated DoD customers. The Contractor shall ensure that products shipped are in compliance with the SIOATH. All product receipts, shipments or transfers shall be properly documented and auditable. The COR shall be informed immediately of any discrepancy in inventory. Month-end physical inventories made by the Contractor as required by the product accounting and reporting provisions found in Clause I119.04 of this contract shall be accomplished in the presence of a Government representative, unless authorized by the Contracting Officer.

Minimum Performance Standards:

100% inventory control and accountability.

All reports submitted accurately and on time.

C-2.4 Property Management and Maintenance

Property Management and Maintenance in support of designated DoD activities is defined as:

Preventive Maintenance (PM): PM is a documented program of recurrent periodic or cyclic scheduled work designed to preserve and maintain equipment, apparatus or facilities in such conditions that they may be effectively used for their intended purpose.

Minor Repair: Minor Repair shall include, but is not limited to, repairs such as replacing gaskets, packing, stripped bolts, etc.

C-2.4.1 Maintenance - General

The Contractor shall be responsible for preventive maintenance and minor repair of terminal facilities and equipment in accordance with contract Clause I114, other applicable contract provisions, and the Government Operations and Maintenance Manuals available on site. The Contractor shall provide all manpower, vehicles, tools, materials and equipment not otherwise specified as Government-furnished to accomplish preventive maintenance.

Maintenance Records: The Contractor shall keep records up to date and make them available to the COR for review upon request and surrender all such records and engineering data to the Government at the expiration or termination of this contract.

C-2.4.2 Preventive Maintenance and Minor Repair – Facilities and Equipment

All information below pertains to requirements and minimum performance standards for preventive maintenance and minor repair.

The Contractor shall ensure that all Government property is preserved and maintained in a safe working condition. It is essential that the Contractor devote adequate effort to the preventive maintenance to Government property. **The Contractor shall ensure that the costs for preventive maintenance and minor repair are included in CLIN 0001 on a firm fixed price basis.**

Preventive Maintenance: The Contractor shall provide for the inspection and servicing of equipment and facilities at time intervals that meet or exceed manufacturer recommendations for preventive maintenance. PM includes performing, at a minimum, the recurring services recommended by the manufacturer or in accordance with commercially accepted practices, as well as the effort required to keep a facility, a piece of equipment or system functioning. The listing of GFE and facilities is at Appendices A and B. While the Government does not plan to dictate specific PM requirements or practices, The Operations and Maintenance Manuals for DFSP Charleston reflect the minimum allowable frequencies for PM associated with the various facilities and equipment at DFSP Charleston. The Contractor's PM program shall provide a systematic approach to planning, scheduling, documenting/reporting and managing (labor, materials and time) to perform those actions that contribute to the uninterrupted functioning of the fuel terminal. The PM program shall include periodic inspection, testing and minor repair of equipment and facilities in accordance with manufacturer's recommendations or commercially accepted practices.

C-2.4.3 Buildings

The Contractor shall ensure that the terminal buildings, structures and terminal facilities are maintained in a clean and pest free (roaches, ants, flies, spiders, etc.) conditions. If insecticides or rodenticides are used by the Contractor, They shall meet the Guidelines of the Defense Logistics Agency "Pest Management Plan".

The Contractor shall be responsible for building maintenance and janitorial services. Each building shall be kept clean and free from debris.

The Contractor shall, at his own cost, replace broken window glass, repair minor roof leaks, repair minor electrical failures (e.g. change fuses, reset circuit breakers), and furnish and replace burned out light bulbs.

The Contractor shall not permit or allow fire hazards, such as oily rags, loose paper, and trash to accumulate in any of the terminal buildings.

The Contractor shall not permit or make any alterations to the terminal buildings or facilities without prior permission/approval, in writing, from the Contracting Officer.

The Contractor shall protect the vacant and unused buildings located on the terminal and ensure that the buildings are kept clean and free of debris. The Contractor may use a specific building or bunkers, at the option of the Government, for protection and storage of Contractor-owned equipment provided that prior written approval is obtained from the COR. The Contractor may not permit other non-Government activities access to the vacant buildings.

The Contractor shall establish a smoking policy that prohibits the smoking of tobacco products other than in specifically designated smoking areas outdoors. The Contractor shall provide and maintain a permanent sign posted at the terminal that reads “**SMOKING IN DESIGNATED AREAS ONLY**”.

- The designated smoking area shall be located or configured to minimize exposure to second hand smoke.
- Smoking at other locations on the terminal grounds will be permitted only if the area is a designated smoking area and smoking at that location would not be inconsistent with other safety requirements.

C-2.4.4 Minor Painting and Spot Painting

The Contractor shall accomplish minor painting as part of his housekeeping requirements. Minor painting shall consist of painting pumps and valves and applying color code bands as prescribed by Military Standard Identification Methods for Bulk Petroleum Products Systems, MIL-STD-161, except for the requirement of paragraph 5.1.1 of MIL-STD-161 which requires such markings on the storage tanks.

Spot painting is painting needed to protect equipment, pipes, tanks, buildings, fences, etc., or to keep the major portion of the paint in good condition. Spot painting is repainting of equipment, etc., when paint has chipped or loosened from painted surface. When more than 25% of the surface requires painting, this will not be considered spot painting. All vertical surfaces above 10 feet from existing secure footing, which require spot painting, shall be accomplished by the Contractor after issuance of a task order under CLIN 0002.

Paint and primer used shall be oil base type suitable for use on metal, exterior surfaces and shall be matching or compatible with existing surface paint.

C-2.4.5 Pumps

The Contractor shall maintain all the terminal pumps in a serviceable condition by performing inspections and maintenance, such as adjusting the packing, stuffing glands, mechanical seals, providing lubrication, replacing gaskets and pump seals, tightening loose bolts and repairing and adjusting valves. Inspection and maintenance shall be performed as outlined in the PM Plan.

C-2.4.6 Valves

The Contractor shall provide maintenance and inspection on all types of valves. The Contractor shall, as required, dismantle valves to replace worn parts, replace gaskets, repack stuffing glands, lubricate, reseal, polish and provide for frequent inspection and operation of each valve in the terminal manifold and pipeline system as outlined in the PM Plan.

The Contractor shall replace unserviceable valves with new Government-furnished valves or Contractor-acquired valves (see Section 3.0, LOGISTICS SUPPORT).

The Contractor shall ensure that all fuel valves on the terminal remain in the closed position except when the tanks is actually being utilized to receive, issue, or transfer product. The Contractor shall ensure that all applicable valves are in the closed position except when product is actually being received, shipped or transferred through a particular pipeline, manifold or system.

C-2.4.7 Pits

The Contractor shall ensure that all valve pits and pipeline pits are kept clean and free of debris. The Contractor shall remove any water and/or fuel that may accumulate in the pits and shall periodically allow the pits to air so that moisture can escape and reduce/prevent corrosion by oxidation. In the event any pit appears to contain excessive fuel vapors or if there is free fuel in the pit, the Contractor shall inspect all pipeline connections (flanges), valve, controls, etc., in order to locate the source of the leak. The Contractor shall immediately take action to correct the defect if considered a minor repair. Other maintenance and repair will be approved by the COR and scheduled via Section C-3.0, LOGISTICS SUPPORT.

The Contractor must recognize the procedures for removing water from the valve pits may require the Contractor to utilize a vacuum truck.

C-2.4.8 Truck Fill Stand:

The Contractor shall ensure that the truck fill stands are clean and free of debris and that the truck fill stand containment area is free of product residue (e.g., product drips, spills, etc.).

The Contractor shall inspect the truck fill stand on a continuing basis for the presence of leaks, faulty equipment, loose connections, clogged filters and need for repairs.

All truck fill stand assemblies shall be checked by the Contractor for electrical continuity. Continuity checks shall be made between the fixed piping sections of the truck fill stand and the end of the discharge or drop tube of the loading assembly. The continuity checks shall be made through the entire range of movement of the loading assembly. If during the checks, electrical continuity is not established or is broken, the truck fill stand shall be out of service until repaired. The continuity checks shall be performed by the Contractor at least every three months. (NOTE: Jumpers shall not be installed around insulated joints used to isolate a section of cathodically protected piping from a non-protected section).

For piping which is not cathodically protected, the Contractor shall ensure that piping resistance to ground shall not exceed 25 ohms and shall check the resistance at least annually.

The Contractor shall measure the truck grounding cable resistance to ground monthly. The resistance from cable clip end to ground shall not exceed 25 ohms.

The Contractor shall perform the necessary maintenance for the truck fill stand and shall replace ground wires, clamps, connections, gaskets, O-rings and burned out light bulbs. The Contractor shall overhaul valves, clean and replace filters and strainers, and perform other minor repairs as needed.

C-2.4.9 Fuel Meters

The repair, maintenance, and calibration of the fuel meters shall be accomplished by a qualified company in compliance with API Manual of Petroleum Measurement Standards, Chapter 5 – Liquid Metering under CLIN 0002.

C-2.4.10 Filters and Filter Separators

The Contractor shall maintain filters and Filter separators (i.e., change filters separator elements, store spare filter elements, prepare used elements for disposal, accomplish minor repairs, replace defective filter separator components such as gaskets, spacers, washers, o-rings, air eliminator valves, pressure relief valves, pressure differential valves, etc. in accordance with manufactures' recommendations. The replacement filters and disposal of spent filters will be accomplished under CLIN 0002.

C-2.4.11 Oil/Water Separator System

The Contractor shall arrange to clean the oil/water separator systems at least once each 12-month period. The cleaning shall, as a minimum, provide for removal of fuel residue and other debris from each compartment/chamber. The oil/water separator systems shall be inspected on a continuing basis to ensure proper operation and to protect against improper discharge. The Contractor must also follow the provisions of the state NPDES permit for discharge from these oil/water separators and submit monthly test reports to the state and DESC.

C-2.4.12 Strainer/Basket Strainers

The Contractor shall inspect and clean the strainers/basket strainers monthly. The receipt line/basket strainers will be inspected and cleaned after each tanker receipt.

C-2.4.13 Fuel Hoses:

Fuel hoses shall be drained and capped and stored on hangers or other supports when not in use. The Contractor shall test hoses annually at 1-1/2 times the maximum allowable working pressure (MAWP). The MAWP is defined in 33 CFR. The Contractor shall mark the testing dates on the outside where it can be seen. The Contractor shall replace hoses when necessary. The hoses will be provided by the Government or the Contractor will be directed to purchase the hoses under Section C-3.0, LOGISTICS SUPPORT.

C-2.4.14 Hoses Other Than Fuel Hoses:

The Contractor shall drain and cap hoses after each use. The Contractor shall test all hoses other than fuel hoses annually as prescribed by Federal, State and local regulations.

C-2.4.15 Cathodic Protection System:

Cathodic protection rectifiers and sacrificial anode installations shall be tested monthly for amperage and voltage outputs. A "cathodic protection operating log" recording test results shall be maintained by the Contractor utilizing Government-furnished forms. A copy of the monthly record shall be forwarded to the Contracting Officer, and the COR by the first of each month.

Inoperative cathodic protection systems shall be reported immediately to the Contracting Officer, and the COR.

C-2.4.16 Manifolds

The Contractor shall inspect manifolds for leaks and general condition of equipment daily. The Contractor shall accomplish minor repairs including, but not limited to, replacing gaskets, reconditioning valves and spot painting. The Contractor shall keep manifolds clean and free of debris, and if the manifold is in a pit, the pit shall be kept free of water.

C-2.4.17 Electrical Bonding, Static Grounds and Insulators

The Contractor shall check electrical bonds for continuity of current flow, static grounds for resistance, and insulators checked for non-flow current conditions. Checks shall be made monthly and a record shall be maintained of these readings by location. Repairs shall be made immediately by the Contractor where the readings are not within acceptable limits. The bonding through the system tanks, piping, loading system, and structures shall not be rated satisfactory by the Contractor if the resistance measured from any one point on the system to any other point exceeds 25 ohms. The static ground rods with a resistance value greater than 10,000 ohms shall not be utilized by the Contractor as static ground.

C-2.4.18 Emergency Generator and Driver

The Contractor shall clean, inspect and perform scheduled maintenance on the emergency generator per the manufacturer's maintenance manual and in accordance with the PM procedures in the DFSP Operations and Maintenance Manual, Volume V.

C-2.4.19 Grounds Maintenance

The Contractor shall provide all labor, tools, materials, supplies, equipment and management necessary to provide grounds maintenance services within terminal areas designated. Maintenance services shall be performed in accordance with all Federal, State and local laws and regulations and the requirements specified below:

The Contractor shall be responsible for weed, grass, brush, or other vegetation control along fence lines, clear zones, pipeline rights-of-way, open areas of the terminal grounds, tank dikes and tank dike basins regardless of the existing conditions at the start of the contract. The weed, grass, brush, and other vegetation shall be maintained at a height of four inches or less. The clear zone outside the terminal fence is 10' except that there is no terminal Contractor responsibility for the clear zone outside the base boundary fence. The use of herbicides for weed, grass, brush, and other vegetation control is completely **PROHIBITED** on the terminal grounds with the exception of the following: pipeline right-of-way and dike areas within the terminal. The use of herbicides must be strictly limited to the pipeline right-of-way and dike areas only. Herbicides and pesticides used must follow the guidelines of the DLA Pest Management Plan. The Contractor shall maintain complete pesticide application records using DD Form 1532.1, "Pest Management Maintenance Record". The Pest Management Maintenance Record shall provide a complete historical record of insecticide, herbicide, or rodenticides applications. The Contractor shall furnish a copy of the Pest Management Maintenance Record to the Contracting Officer by the first day of the month following an application of herbicides/pesticides.

C-2.4.21 Trash Removal (Solid Waste Management)

The Contractor shall be responsible for the collection of accumulated trash, to include wind blown trash and debris. Under no circumstances shall the Contractor permit or allow accumulated trash to be burned or disposed of within the terminal. The Contractor shall participate in and support any recycling programs. **Note:** *The Contractor shall be responsible for the payment of any fees or tax accessed by the local authorities (Hanahan, Berkley County) which are associated with the Contractor's arrangements for trash removal services and the support of local Government sponsored recycling and solid waste management programs.*

C-2.4.22 Fencing

The Contractor shall inspect the terminal fencing for general condition. The Contractor shall accomplish minor fence repairs, which shall include, but are not limited to, painting rust spots on fence fabric, fence posts, gate bands, gate posts; tightening fence fabric; tightening/realigning gates and gate posts; and minor patching (repair/ replace fence fabric up to one foot wide and seven feet long).

C-2.4.23 Fire Protection

The fire protection system consists of a diesel-driven fire water pump, an aqueous film-forming foam (AFFF) system, hydrants, and hand-held extinguishers.

Requirement: All Government property shall be maintained in a safe working condition. Appendices A and B provide listings of all Government-furnished facilities and equipment to be maintained by the Contractor. The Contractor shall develop and execute a preventive maintenance plan. The COR shall be informed immediately of abnormal wear, tear, malfunction or breakdown, etc., of Government facilities or equipment. Maintenance Records: The Contractor shall make all records available to the COR for review upon request and surrender all such records and engineering data to the COR at the expiration or termination of this contract. All other maintenance and repair performed shall be pre-approved by the COR.

Minimum Performance Standards: Fuel terminal operations shall not be delayed as a result of facility equipment downtime. All equipment and facilities shall be maintained in accordance with the industry standards and approved Preventive Maintenance Plans.

C-2.4.24 Maintenance – Bioremediation System: The operation of the bioremediation system is under a separate Government contract from this operating contract. The Contractor's responsibilities are limited to trash collection and disposal. However, overall responsibility for the implementation of the Best Management Practices (BMP) spill prevention objectives remain with the terminal operating contractor. The Contractor may be required to obtain supplies or repair services for the bioremediation system equipment and facilities as directed by the ACO or COR (see Section C-5.31)

C-2.5 Contractor Personnel Training: The Contractor shall establish and maintain, during the lifetime of this contract, a training program defined in the Contractor's training plan that meets all Federal, state, and local laws and regulations.

Requirement: All personnel shall be able to recognize and handle potential hazards to avoid dangerous exposure and to develop safe working habits, practices and skills.

Minimum Performance Standard: 100% documentation and compliance with the Contractor training program.

C-2.6 Contractor Safety Program

The Contractor shall establish and maintain, during the lifetime of this contract, detailed safety procedures in accordance with applicable Federal, State and local occupational safety and health laws and regulations. Figure 6 lists elements of the safety plan that the Contractor shall submit 60 days after contract award for Contracting Officer review.

FIGURE 6
Required Contractor Safety Plans

Confined Space Entry Plan
Hurricane and Disaster Preparedness Plan
Fire Prevention and Protection Plan
Personal Protective Equipment Plan
Safety and Health Plan
Lock-out Tag-out Plan
Hazard Communication Plan

Requirement: All operating personnel shall be able to recognize and handle potential hazards to avoid dangerous exposure and to develop safe working habits, practices and skills. The Contractor shall establish and maintain a smoking policy that prohibits smoking other than in specifically designated areas on the terminal grounds. The Contractor shall provide and maintain a permanent sign posted at the entrance to the terminal that reads: "NO SMOKING EXCEPT IN DESIGNATED SMOKING AREAS." The Contractor shall designate smoking areas and provide signs for those areas that read: "DESIGNATED SMOKING AREA." All personnel shall have access to safety plans.

Minimum Performance Standards: 100% documentation and compliance with the Contractor's Safety Program.

C-2.7 Mission Support

The Contractor shall establish a working relationship with medical personnel and ambulance services, local fire departments, local police, U.S. Coast Guard, EPA and other Federal agencies as directed by the DEO, local Civil Defense organizations and the Federal Emergency Management Agency (FEMA). The Contractor's purpose in establishing working relationships shall be to advise officials that they are operating a Government-owned facility under the provisions of a Government contract and that in the event of an emergency situation; local assistance shall be requested as appropriate. In establishing working relationships, the Contractor shall maintain a position of responsibility as specified in contract provisions and recognize that any outside assistance requested shall be intended as a means of enhancing the Contractor's ability to continue terminal operations.

C-2.8 Environmental Protection

In addition to the provisions of Clause I116, I180 and I180.2, the Contractor's performance shall be in accordance with environmental plans listed in Figure 7 that will be provided by the

Government. Environmental permits and licenses required to operate the terminal will be obtained and maintained by the Government. **The Contractor is responsible for complying with the requirements of those permits and submitting the required reports.** The Contractor will be reimbursed, by the Government for the annual dues associated with the membership in the pollution control cooperative. Compliance requirements as negotiated by the Government may change during the contract period and the Contractor shall modify standard operating procedures and work practices to ensure compliance with any new or revised permits, licenses, laws or regulations.

Contractor responsibilities for spill response under the CLIN 0001 portion of this contract shall include all facets of Tier I spill response identified in the facility response plans for DFSP Charleston including:

Immediate response and clean up of minor spills occurring during fueling operations, regardless of Contractor/DoD customer responsibility. The Contractor shall: Have sufficient personnel available to effectively employ all spill response equipment. Ensure that Contractor personnel are trained in the safe and efficient use of all spill response equipment. Comply with all drill and exercise requirements mandated under OPA 90. Maintenance of spill response consumable materials at the levels present during turnover. Replacement of all consumables (i.e., sorbent materials) utilized during Tier I response activities or cleanup actions associated with day-to-day operations shall be at the Contractor's expense. Consumables shall be replenished anytime the quantity on hand drops 10% below the turnover level.

Tier II and Tier III spill response actions beyond those outlined above are reimbursable under Section 3.0, LOGISTICS SUPPORT and shall be documented and executed in accordance with CLIN 0005.

In addition to spill response, shall provide all labor, material, equipment and vehicle resources necessary to comply with the Storm Water Pollution Prevention Plan (SWPPP).

The Contractor's responsibilities shall be primarily annual source inspections, visual observations of storm water discharge, storm water sampling from outfalls and transporting samples to a designated laboratory for testing.

FIGURE 7

Government-Provided Environmental Documents/Fee's

Spill Prevention Control and Countermeasures (SPCC) Plan
Facility Response Plan (OPA 90)
Hazardous Waste Management System
National Pollutant Discharge Elimination System (NPDES) Permit
Storm Water Pollution Prevention Plan (SWPPP)
Charleston, South Carolina, Operation & Maintenance Manual
Oil Pollution Prevention Operations Manual
Yearly Spill COOP Fee (CLIN 0002, Logistic Support, Section C-3.0)
Yearly State Permits Cost/Fee (CLIN 0002AA, Logistic Support, Section C-3.0)

Requirement: Ensure that all necessary actions are taken to prevent, control and abate environmental incidents.

If the Contractor receives a Notice of Violation, the Contractor shall immediately notify the Contracting Officer and the COR.

Minimum Performance Standards: 100% compliance with all Federal, State and local environmental laws and regulations and Government provided documents.

C-2.9 Terminal Security: The DFSP Charleston security capability consists of two fixed camera positions and six Pan/tilt/zoom cameras. The main terminal Office building and the gate guard house are each equipped with a monitor and accessories to operate the pan/tilt/zoom cameras.

The Contractor shall be responsible for terminal security throughout all DFSP facilities. The functions described herein are the responsibility of the Contractor, and are not necessarily guard functions.

The Contractor shall provide, as a minimum, an unarmed guard on duty at the terminal during non-duty hours 5 days per week (4:00 p.m. to 7:00 a.m. daily).

The Contractor shall provide one unarmed guard 24 hours per day on Saturdays, Sundays and holiday's as stipulated in the wage determination. The Contractor's designated unarmed guard shall accomplish a random roving patrol of the entire Charleston terminal once each eight-hour shift utilizing a Contractor-furnished vehicle. A complete record of each random Charleston terminal patrol shall be documented in an appropriate log-book.

Any guard who serves as a first responder must be classified as Guard II, i.e., if the guard is left in sole charge of the DFSP, as a night guard is, he/she must be classified as Guard II. If two guards are required at night, at least one of the guards must be classified as Guard II.

The Contractor shall provide all the labor, materials, equipment, vehicle resources and management necessary to fulfill the security requirements in Figure 8.

The Contractor shall establish and maintain, during the lifetime of this contract, a detailed security plan in accordance with the security requirements listed in Figure 8 and all applicable Federal, State and local laws and regulations. The Contractor shall submit the security plan to the Contracting Officer for review 30 days after contract award.

FIGURE 8
Security Requirement

Control access to Government-owned facilities.
Secure all DFSP gates, valves, buildings, systems or tanks when not in use (any exceptions to be authorized by the COR).
Maintain a visitor and event log.
Provide a minimum of at least one roving guard patrol for each eight hour shift in conjunction with the Charleston terminal security cameras sufficient to ensure that the perimeters of the facility are not breached and that any safety and/or environmental hazards are identified and reported immediately. Note: The Contractor shall be responsible for establishing hourly guard patrols whenever the security cameras are out of service.
Provide occasional guard force personnel for special details/events such as oil spills, crowd control during accidents, spill response and fires, community events (reimbursable under CLIN 0004).

Requirement: Control and coordinate initial containment of fires, explosions, collapses, spills or other catastrophes with minimal damage.

Minimum Performance Standards: No unauthorized personnel on DFSP property due to Contractor fault, negligence or misconduct. No unsecured gates, valves, buildings or tanks when not in use. No damage or loss of Government property due to Contractor fault, negligence or misconduct.

SECTION C-3.0 - LOGISTICS SUPPORT
CLIN 0002, 0003, 0004, and 0005 - COST REIMBURSABLE

C-3.1 Contractor Provided

The Contractor shall provide supplies, materials, equipment and emergency services not specified elsewhere in this contract when approved and funded by the Contracting Officer or COR. Such approval will be provided in the form of a DD 1149 (Task Order) signed by the Contracting Officer or COR (for task orders within the COR's funding threshold as delegated by the Contracting Officer in a letter of appointment). In emergency situations, the Contractor may receive verbal approval, which will be followed up by written task order within two working days.

C-3.2 Contractor Reimbursement

Reimbursement under CLIN 0002, 0003 and 0005 shall be for the prime Contractor's allowable, allocable and reasonable direct cost of any subcontracts for furnishing supplies, equipment, material and services specified in Section C-3.0. No additional indirect/overhead costs or fee will be reimbursed.

C-3.3 Contractor Overtime

Reimbursement for overtime, CLIN 0004, shall be for allowable, allocable and reasonable directed overtime labor costs plus fringe benefits and payroll taxes of the prime Contractor's regular employees. Allowable, allocable and reasonable cost will be reimbursed pursuant to FAR, Section 31. No additional indirect/overhead costs or fee will be reimbursed.

C-3.4 Non-Reimbursement

The Contractor will not be reimbursed under CLIN 0002, 0003, 0004 or 0005 for any labor costs for using employees during normal work hours in the performance of any task listed under Section C-3.0. Nor will the Contractor be reimbursed under CLIN 0002 for equipment costs using Government-furnished or Contractor-furnished equipment in the performance of any task listed under Section C-3.0.

CLIN 0002 – Services and Equipment/Supplies/Materials Requiring a Task Order

Maintenance and Repair: The Contractor shall provide maintenance and repair beyond preventive maintenance as directed by the Contracting Officer or COR.

The following procedures apply:

Contractor-initiated:

The Contractor identifies in writing to the COR any maintenance which is beyond preventive maintenance and minor repair. The written request shall include the following information:

- A detailed description of the deficiency
- A detailed description of the required corrective action(s)
- A detailed description of the repair to be accomplished
- The proposed performance period

- The estimated cost to have the repairs accomplished
- The urgency for accomplishing the repairs

The Contractor identifies in writing to the COR the need for supplies, materials and/or equipment which are not provided under this contract as Government-furnished or Contractor-furnished.

The written request shall include the following information:

- Item description
- Source of supply
- Purchase description
- Required delivery date
- Estimate costs

If approved, a task order will be shipped directing the Contractor to proceed. The Contractor shall obtain consent to subcontract when required by and pursuant to Clause I400.09(F) and shall subcontract for the supplies, materials, equipment or subcontract work to a responsible Contractor who is in the business of performing similar work.

Government-initiated:

The Government will determine the need to accomplish maintenance, which is beyond preventive maintenance and a written task order will be shipped directing the Contractor to proceed.

The Government identifies the need for supplies, materials and/or equipment. If purchase through the Contractor is approved, a task order directing the Contractor to proceed will be shipped.

The Contractor shall obtain consent to subcontract when required pursuant to Clause I400.09(F) and shall subcontract for the supplies, materials, equipment or subcontract work to a responsible Contractor who is in the business of performing similar work.

CLIN 0002AA – Services and Equipment/Supplies/Materials Not Requiring a Written Task Order

The Contractor is **not** required to obtain a written task order for the following services, supplies or equipment/materials. The Contractor shall however, when required by the subcontracts clause, obtain consent to subcontract pursuant to the General Provisions entitled SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS), FAR 52.244.2 (Alt 1).

- Heating system repairs.
- Diesel Fuel (for diesel driven generators, diesel driven pump).
- Diesel driven generator parts and supplies.
- Calibration of fill stand meters, pipeline meters, pressure gauges
- Cleaning of the oil/water separator.
- Annual check of fire alarm system.
- Filter elements and parts and supplies.
- Reimbursable telephone charges (must be supported by detailed account information).
- Meter tickets (90 day supply).

- Cost of analysis/testing required by the NPDES and other miscellaneous analysis/testing required by the ground water monitoring program.

CLIN 0003 – Emergency Services

Emergency Services: Emergency services include repairs or services required immediately to permit performance of the contract and/or eliminate hazards to life or property following a breakdown of facilities or equipment, accident, fire, or product spill.

Emergency Services include, but are not limited to the following:

Repair to fire suppressions systems and all supplies, materials, and parts required to complete the repair. Repair of pipeline leaks and all supplies, materials, and parts required to complete the repair. Sump pump repairs; Tank repairs and cleanup; Fence repairs needed to repair large holes that are potential security problems and all supplies, materials, and parts required to complete the repair. Security lighting and system repairs and all supplies and materials required to complete the repair. Heating system repairs and all supplies and materials required to complete the repair.

The following procedures shall be followed:

The Contractor shall report to the Contracting Officer, Defense Energy Region and the COR, the emergency immediately by telephone. The Contracting Officer or COR will verify that an emergency actually exists and orally direct the Contractor to continue work under CLIN 0003 for subcontracted services and supplies and CLIN 0004 for authorized overtime. The Contracting Officer will confirm oral direction in writing by the end of the next normal workday. The Contractor shall obtain consent to subcontract when required pursuant to the General Provisions entitled SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS), FAR 52.244.2 with Alt 1.

CLIN 0004 - Overtime

The Contractor will be reimbursed for the direct cost plus allowable and allocable fringe benefits and payroll taxes for overtime worked by the Contractor employees pursuant to the provisions of this contract and the clause entitled PAYMENT FOR OVERTIME PREMIUMS (FAR 52.222-2) within the following additional approval restrictions.

The following procedures shall apply:

The Contractor shall not work overtime nor shall be reimbursed without prior approval of the Contracting Officer or COR pursuant to FAR 52.222-2.

If the Contractor works overtime pursuant to FAR 52.222-2(a), the Contractor shall notify the Contracting Officer and the Defense Energy Office within 72 hours of telephonic notification of the emergency. Overtime information shall include, but not be limited to, the following:

- Number of overtime hours worked by position/employee.
- Total number of overtime hours worked.
- Direct labor cost plus fringe benefits and payroll taxes per hour for each labor category.
- Total estimated cost of overtime labor.

The Contractor will not be reimbursed for overtime expenses for emergency repairs or cleanup when those emergencies resulted from the fault, negligence, bad faith or misconduct of the Contractor, its employees or agents. If the Contractor employee(s) works overtime during the normal work hours specified in Section C-1.9, it shall be at the Contractor's expense. The Government will not reimburse the Contractor under CLIN 0003 for such overtime worked by Contractor employee(s).

CLIN 0005 – Emergency Spill Response Services:

Tier II and Tier III emergency spill response services include services required to permit performance of the contract and/or immediately initiate clean up in the event of product spill or other environmental mishap beyond Tier I response required under CLIN 0001.

Emergency Spill Response Services include, but are not limited to, the following:

Clean up associated with the discovery of a product spill (i.e., pipeline leak, tank leak, etc.); Repair to clean up and control equipment/system and all supplies, materials, and parts required to complete the repair; emergency response to spill and leaks; disposal services for waste both hazardous and non-hazardous.

The following procedures shall be followed:

The Contractor shall report to the Contracting Officer, Defense Energy Office and the COR, the spill response required immediately by telephone. The Contracting Officer or COR will verify that a spill response requirement actually exists and orally direct the Contractor to continue work under CLIN 0003 for subcontracted services and supplies and CLIN 0003 for overtime. **The Contracting Officer will confirm verbal direction in writing by the end of the next normal workday.**

The Contractor shall obtain consent to subcontract when required pursuant to the General Provisions entitled SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS), FAR 52-244.2 with Alt 1.

The following apply to CLIN 0002, 0003, 0004, and 0005:

Logistics Fund Statement: The Contractor shall provide a Logistics Fund Statement by the fifth day of each month to the Contracting Officer and Defense Energy Office.

Contractor Purchasing Standard Operational Procedures: The Contractor shall establish and maintain purchasing standard operational procedures acceptable to the Government. As a minimum, the Contractor shall comply with the following requirements:

The Contractor shall only purchase services and materials from companies who are qualified and engaged in the type of repairs being provided or engaged in providing or manufacturing materials being purchased.

Requirement for Competition: In all cases of commercial procurement, except procurement with the total money value of \$2,500.00 or less, a minimum of three quotations (verbal or written) shall be obtained and the award shall be to the lowest, responsible, responsive bidder. However,

in all cases, regardless of dollar value and urgency, the Contractor shall not award a contract unless it has been determined that the price is fair and reasonable. Documentation for this determination shall be included in the task order file.

The Contractor shall procure materials and services at the most advantageous prices with due regard for prompt delivery of satisfactory credits and other benefits. The Contractor shall also take all actions necessary to obtain applicable tax exemptions, reductions and refunds. Reimbursement cost shall be the net cost after taking discounts, rebates, allowances, credits, tax exemptions, reductions and refunds and other benefits.

The Contractor shall prepare a Standard Operating Procedure (SOP) on the Contractor's purchasing policies and procedures to include, but not be limited to, maintenance of purchasing records, policies and procedures on emergency purchases, subcontract, termination, source selection and contract administration. The Contractor shall submit the SOP to the Contracting Officer for review and consent, a copy shall also be sent to the Defense Energy Office. After consent, the Contractor shall adhere to those procedures unless further reviews of such procedures and policies by the Contracting Officer during the life of the contract reveal deficiencies in the Contractor's purchasing standard operational procedures. Such deficiencies include, but are not limited to, a Contracting Officer's determination that the Contractor's purchasing standard operational procedures do not provide sufficient protection of the expenditure of Government funds and are, therefore, unacceptable. The Contracting Officer shall notify the Contractor in writing within 14 calendar days of the Contracting Officer's determination of deficiencies in the Contractor's purchasing standard operational procedures. The Contractor shall revise its purchasing standard operational procedures so that it is acceptable to the Contracting Officer. The Contracting Officer will review the Contractor's purchasing methods when determined necessary by the Contracting Officer during the life of the contract.

NOTE: THE SOP SHALL BE SUBMITTED TO THE CONTRACTING OFFICER NOT LATER THAN 30 DAYS AFTER CONTRACT AWARD.

Appendix "A"
GOVERNMENT-FURNISHED FACILITIES

Unauthorized Use of Facilities: The Contractor shall not permit and/or authorize terminal personnel to store or repair any personnel property including, but not limited to, boats, vehicles, trailers, motorcycles, etc., within the terminal property. In addition, the Contractor shall not utilize the terminal property and terminal facilities for storage or repair of Contractor-owned vehicles and equipment not specifically required by the terminal contract provisions. Parking, of personal vehicles used for transportation to and from work, will be permitted to park in the designated personal vehicles parking areas during employee working hours. The Contractor shall not permit his employees to utilize their personal vehicles while performing their normal terminal functions. In addition, personnel assigned to sub-contractors must utilize the designated personal vehicle areas and shall not be permitted to utilize their personal vehicles while performing maintenance, repair or other functions at the terminal.

Government Facilities: The description of the Government facilities is provided an approximate list of facilities and equipment that make up the terminal and is not intended to be an all-inclusive list. The Government reserves the right to replace defective and worn-out facilities and equipment and to improve and modernize the terminal. **Additional information and pictures of the terminal facilities can be found in the Charleston terminal Operations and Maintenance Manual.**

Storage Tanks: The Charleston terminal has seven 80,000 barrel shell capacity above ground storage tanks. The tank cleaning and maintenance data is as described in the following table.

DFSP CHARLESTON STORAGE TANK CLEANING/MAINTENANCE DATA

Tank #	Product	Shell Capacity (Bbls)	Safe Max Fill (bbls)	Last Cleaned/ Inspected	Notes
01	JP8	80,000	69,435	API 653 Oct 1992	Safe Fill determined by API *
02	JP8	80,000	69,436	API 653 May 1998	Safe Fill determined by API *
03	JP8	80,000	69,460	API 653 July 1996	Safe Fill determined by API *
04	JP8	80,000	69,474	Dec 1992	Safe Fill determined by API *
05	JP8	80,000	69,900	Nov 1998	Safe Fill determined by API *
06	JP8	80,000	67,688	June 1996	Safe Fill determined by API *
07	JP8	80,000	67,688	Dec 1992	Safe Fill

					determined by API *
Total	JP8	560,000	483,081		

Note: * The Safe Maximum Fill capacity for the Charleston Storage tanks is based on the post Maintenance and Repair Storage Tank Modification and Repair Project which was completed in October 2001. (Please refer to the terminal Spill Prevention, Control and Counter Measures Plan (SPCC) of July 2002).

Terminal to Charleston AFB Pipeline System: One 8-inch underground pipeline system, approximately 5.34 miles long. The pipeline system is located under both commercial and residential areas. The routing of the pipeline system is shown on the drawings included in Appendix "E" of the Charleston Terminal Operation and Maintenance Manual. The depth of pipeline varies from 3 to 10 feet below grade. The pipeline is single-walled carbon steel and is equipped with a Cathodic protection system.

Marine Terminal Pipeline Systems: Two eighteen aboveground pipelines, approximately three miles long, connecting the main Charleston terminal to the Marine terminal, which is located on the U. S. Naval Weapons Station Annex. The two eighteen inch pipeline systems are installed with concrete piers approximately three feet high, and are protected by a cathodic protection.

Marine Terminal Dock Facility: The marine terminal dock facility is approximately 700 feet long and consists of a tanker berth and a barge loading facility. Ancillary equipment at the marine terminal includes a dock manifold and pipeline system that connects to the two 18-inch pipelines from the main terminal; Two eight inch pipelines that connects the marine terminal dock manifold system to the tanker loading/offloading facility; assorted valves, pumps, gauges as necessary to load/unload tankers and barges; a watchman/sample house containing a latrine, emergency shower, storage room for environmental supplies/equipment, fire extinguisher, and storage for tanker/barge handling equipment and supplies.

Tank Truck Fill Stand Facility: The two terminal tank truck fill stand facilities are capable of loading two commercial tank trucks simultaneously.

Tank Car Fill Stand Facilities: The tank car fill stand consist of twenty-tank car loading stations.

Manifold and Pump Facilities: The terminal pump and manifold facilities consist of two electric-driven four stage pumps which are utilized to transfer product to Charleston AFB; six pumps for operation of the tank truck fill stands, tank car fill stand facilities, and for tank to tank transfers. The terminal pumps are operated by electricity with capabilities up to 2,000 GPM.

Security Fence: The terminal security fence consist of approximately 5,480 feet of 7-foot high chain link fence with a 3-strand barb wire top, two walk through gates, two entry/exit gates, for commercial tank trucks, which are operated by an electric driven open/close control system, and one tank car entry/exit gate.

One Office building (Terminal Administration)

One guardhouse located at terminal gate.

The QSR facility is located in a 17'3" x 11'3" office building and fuels testing laboratory. The terminal laboratory operation is the responsibility of the terminal QSR. The Contractors laboratory responsibilities are limited to janitorial services, trash collection and disposal. The Contractor shall not receive and/or answer inspection reports relative to the laboratory operation or the laboratory facility. The Contractor may be required to obtain repair services for the laboratory facilities and equipment. (See section C5.31, LOGISTIC SUPPORT).

Additive Injection System: The terminal additive injection system is equipped with a dual port capability for the injection of FSII and conductivity additive.

Security Lights: The terminal has 100 security lights consisting of fourteen pole-mounted security lights in the area of the storage tanks, thirty seven pole-mounted street lights, twenty pole-mounted security lights at the tank car fill stand area, twenty four security lights at the truck fill stand area, and five pole-mounted security located at the marine terminal dock facility.

Fire Suppression System: The fire suppression system consists of a series of 16 standard fire hydrants located through out the terminal. Additional fire suppression capability consist of a fire pump station, building number 4, which is a concrete block building 14' x 18' equipped with a type DS6, 1,000gpm 40hp electric driven fire pump (Chicago Pump Co.) equipped with a line strainer and a remote fire control panel located in the terminal administration building. The terminal fire suppression system also consists of an automatic fire protection system building equipped with seven deluge valves.

Emergency Power Generator System: The emergency power generator is complete with a 1,000 gallon underground fuel storage tank. The generator system is contained in the generator storage building, building number 8, which is a 10'8' x 20' concrete block building equipped with a shed roof over the power generator.

Warehouse and Storage Capability: The warehouse and storage capability consist of two warehouse storage buildings 21'4" x 41'4".

Maintenance Building: The maintenance building is 40' x 40' with roll up doors.

Charleston AFB Pipeline Pump Station Control building: The pump station control building is 14' x 18' and is used to operate the Charleston AFB pipeline system.

Manifold and Pipeline System: The terminal manifold system including the marine dock pipeline systems consists of 93,317 linear feet of assorted size pipeline, 517 valves ranging in size from 1/2" to 18" including ball, gate, plug, double block and bleed, flow control, pressure relief, etc., 39 strainer assemblies ranging in size from 4" to 28".

Tank Car Handling Facilities: The terminal tank car handling facilities consists of 5,845.6 linear feet of railroad siding complete with 6 switches and 4 frogs.

Oil/water Separator System: The terminal oil/water separator system consist of three ground level oil/water separator tanks (concrete, open top, grated) with two state permitted discharge points.

Marine Dock Facility: The terminal marine dock facility consists of a sample building 18' x 18' adjacent to the existing sample bottle storage room 12' x 12', a barge loading assembly, a tanker

loading assembly, and a pump for U. S. Navy ship refueling. The terminal marine dock is also equipped with a spill containment system that provides a concrete containment area at the marine dock manifold which is connected to an oil/water separator by a pump and pipeline system. The marine dock oil/water separator system consists of a 1,000 gallon aboveground storage tank, and an oil/water separator enclosed in a 24' x 50' fenced area with a 10 foot entrance gate.

Tank Bottom Water Collection System: The terminal tank bottom water collection system consists of a welded steel pipeline system and a 10,000 gallon collection tank. Information and pictures of the terminal truck fill stands can be found in the Charleston terminal Operations and Maintenance Manual.

Appendix "B"
GOVERNMENT-FURNISHED EQUIPMENT

GOVERNMENT PROPERTY: The Contractor shall submit all data required; maintain all records; and care for, maintain and account for all Government-furnished property IAW Clause I114. The Contractor shall be responsible for the equipment and be required to maintain a signed receipt document furnished by the Accountable Officer for account number SC0601. Equipment and supply additions to the document may originate from a number of sources including items obtained by the Contractor (Contractor-acquired), items provided through Government supply sources and items provided by the Government through Government-sponsored repair and maintenance services which are not Contractor-acquired (Government-furnished). When an item of Government property is no longer required, the Government, at its discretion may not replace the item.

OTHER GOVERNMENT-FURNISHED PROPERTY: In addition to the installed facilities and other equipment listed in Appendix A, the Government will provide the following supplies and equipment.

Plans: A set of complete plans and electrical diagrams. Plans will show the location of all items of equipment and will include actual distances from permanent structures to tanks, pipelines, pumps, valves, bends, and other underground fixtures. The plans and electrical diagrams are to be retained at the operating location.

DD Form 250 series: Material Inspection and Receiving Reports.

DD Form 1348 series: Single Line Item Release Documents, DD Form 1348 series.

Fuel Additives: FSII, Anti-Static Additive, Corrosion Inhibitor, etc.

Heating Fuel: Utilities, Gas, Water, Electricity, etc.

Diesel Fuel: For emergency generator.

Emergency Distribution Plan: Initial and changes thereto.

Fire Suppression Equipment: All fire suppression equipment (i.e., fire extinguishers, portable and installed fire suppression equipment) will be provided, overhauled, and when necessary, replaced by the Government. The Contracting Officer will determine the quantity and type of fire suppression equipment required at the terminal.

Locks and Keys: The Government will provide sufficient locks and keys as required to secure valves, valve pits, gates, monitoring wells, and buildings. The Contractor shall, as a minimum, provide a detailed listing at the terminal, of each lock and lock set indicating the location and use. The Contractor shall also provide maintain current a listing of the names of employees assigned and in possession of keys and key sets to the Contracting Officer within 30 days of contract award. The Contractor shall also provide a written procedure to the Contracting Officer within 30 days of the contract award that details the Contractor's procedures and method of securing the standby and spare keys, locks and lock sets in a lockable storage container.

Material Safety Data Sheets: Will be provided as required by 29 CFR 1910.1200, Hazard Communication Standard.

Continuous on line Telephone Service: Telephone service is provided for the Charleston AF pipeline and the two 18" pipeline systems which connect the Charleston terminal to the marine dock facility. The Telephone line service number 91-PL-00256 provides continuous telephone service for the Charleston AFB pipeline system and the telephone line service number 91-PL-00257 provides continuous on line telephone service for the marine dock facility.

Government-furnished Manuals, Plans, Procedures, etc.: Copies of all manuals, plans, procedures, etc. will be maintained at the terminal and available for the Contractor's use. Manuals, plans, procedures, etc., although detailed, are not all inclusive.

Operation and Maintenance Manual: An electronic copy of the Charleston Terminal Operations and Maintenance Manual is provided as part of the Performance Work Statement. A hard copy of the Charleston Operations and Maintenance shall be maintained at the terminal. The primary intent of the Operation and Maintenance Manual is to identify the functions and responsibilities associated with the movement of product via pipeline. The manual is prepared so as to provide compliance with 49 CFR Part 195 and to incorporate the operations and maintenance functions and responsibilities of the associated terminal facilities (i.e., terminal manifold facilities, terminal pipelines, terminal tanks, etc.).

Spill Prevention Control and Countermeasures (SPCC) Plan: An electronic copy of the Charleston Terminal SPCC is provided as part of the Performance Work Statement. The Contractor's responsibilities for Spill Prevention Control and Countermeasures shall be as outlined in the SPCC Plan provided by the Government. A hard copy of the SPCC shall be maintained at the terminal and is for the Contractor's reference. The primary intent of the SPCC is to identify the functions, responsibilities, and record keeping requirements associated with spill prevention. The plan is prepared so as to provide compliance with 40 CFR 112.

Facility Response Plan (OPA 90): An electronic copy of the Charleston Terminal OPA 90 is provided as part of the Performance Work Statement. The Contractor's responsibilities for the Facility Response Plan (OPA 90) shall be as outlined in the Facility Response Plan (OPA 90) provided by the Government. A hard copy of the Facility Response Plan (OPA 90) will be maintained at the terminal and is for the Contractor's reference. The primary intent of the Facility Response Plan (OPA 90) is to identify the functions, responsibilities, training, and record keeping requirements associated with the Facility Response Plan (OPA 90). The plan is prepared so as to provide compliance with the OPA 90 requirements of 40 CFR 112.

Oil Pollution Prevention Operations Manual: An electronic copy of the Charleston Terminal Oil Pollution Prevention Operations Manual is provided as part of the Performance Work Statement. The Government shall as outlined in the Oil Pollution Prevention Operations Manual provide the Contractor's responsibilities for the Oil Pollution Prevention Operations. The primary intent of the Oil Pollution Prevention Operations Manual is to identify the functions, responsibilities, training, and record keeping requirements associated with the Oil Pollution Prevention Operations Manual. The manual is prepared so as to provide compliance with 33 CFR 154.

Hazardous Waste Management Plan: An electronic copy of the Charleston Terminal Hazardous Waste Management Plan is provided as part of the Performance Work Statement.

The Government shall as described in the Hazardous Waste Management Plan provide the Contractor's responsibilities for Hazardous waste management. A hard copy of the Hazardous Waste Management Plan, will be maintained at the terminal, and is for the Contractor's reference.

The primary intent of the Hazardous Waste Management Plan is to identify the functions, responsibilities, procedures, training, and record keeping requirements so as to provide compliance with 40 CFR 260-268.

National Pollutant Discharge Elimination System (NPDES) Permit: An electronic copy of the National Pollutant Discharge Elimination Discharge Permit is provided as part of the Performance Work Statement. The Contractor's responsibilities for the National Pollutant Discharge Elimination System (NPDES) shall be as outlined in the State of North Carolina (NPDES) Permit provided by the Government. A hard copy of the program will be maintained by the Government, at the terminal and is for the Contractor's reference. The primary intent of the National Pollutant Discharge Elimination Permits Program is to identify the functions, responsibilities, and record keeping requirements associated with the permits program. The National Pollutant Discharge Elimination System Permits Program is prepared so as to provide compliance with 40 CFR 122 and 125.

Government-Furnished Equipment/Property Inventory: The Contractor shall maintain a complete, accurate electronic inventory database. The Contractor shall submit a report of Government-Furnished equipment/property under Contractor custody. The report will be due to the Contracting Officer no later than six months from the start of the contract and annually thereafter in accordance with FAR Part 45, Sub-part 45.5.

The Contractor's report shall, as a minimum, provide a complete inventory of all Government-furnished property under his custody. The Contractor shall identify any and all Government-furnished property received since the preparation of the last inventory and furnish copies of the source documents (i.e., Contractor's invoice and vendor's invoice) for each item of Government-furnished property.

Item No.	Nomenclature	Unit	Qty
1	Grinder, Bench, 10", 1 hp, 115v, w/safety shield	Each	1
2	Vise, machinist	Each	1
3	Vise, pipe, rigid	Each	2
4	Ladder, 10', wood, platform	Each	1
5	Cabinet, steel, tool storage	Each	1
6	Locker, wardrobe unit	Each	1
7	Clock, with key stations	Each	1
8	Barge, Gangway, 20'	Each	1
9	Pump, mud hog	Each	1
10	Pump, w/8 hp engine, mounted on cart w/tow bar	Each	1
11	Truck Probes, Scully, Portable	Each	1
12	Fire Extinguisher, 150 lbs, wheeled	Each	10
13	Fire Extinguisher, 10 lb	Each	13
14	Table 26" x 42", steel, 2 drawer w/walnut top	Each	1
15	Hose, 2"x30" for High pressure injection pump	Each	1
16	Filter Scavenger, oil recovery	Each	1
17	Remote Control Box	Each	1
18	Discharge Hose, 50' long x 1/2" dia.	Each	2
19	Discharge Hose, 100' long x 1/2" dia	Each	1

21	Power cord, 60' long	Each	1
22	Schulchek system tester w/ two adapters	Each	1
23	Facsimile machine	Each	1
24	Computer, pipeline leak detection	Each	1
25	Monitor, pipeline leak detection	Each	1
26	Printer, Color, pipeline leak detection	Each	1

APPENDIX "C"
ACRONIMS

AFB	Air Force Base
ASTM	American Society for Testing Materials
BBLS	Barrels
BPH	Barrels per Hour
CDR	Contract Discrepancy Report
CFR	Code of Federal Regulations
CI	Corrosion Inhibitor
CLIN	Contract Line Item Number
CONUS	Continental United States
COR	Contracting Officer's Representative
DEO	Defense Energy Office
DESC	Defense Energy Support Center (formerly the Defense Fuel Supply Center (DFSC))
DFAMS	Defense Fuel Automated Management System
DEH	Department of Environmental Health
DFSP	Defense Fuel Support Point
DIC	Document Identifier Code
DIEGME	Di Ethylene Glycol Monomethyl Ether (a type of FSII)
DLA	Defense Logistics Agency
DoD	Department of Defense
DoDAAC	Department of Defense Activity Address Code
DoDAAD	Department of Defense Activity Address Directory
DSN	Defense Switched Network
EDP	Emergency Distribution Plan
EPA	Environmental Protection Agency
FAR	Federal Acquisition Regulation
FAS	Fuels Automated System
FEMA	Federal Emergency Management Agency
FRP	Facility Response Plan
FSC	Facility Spill Coordinator
FSII	Fuel System Icing Inhibitor
FSL	Low Sulfur Fuel Oil
GFE	Government-Furnished Equipment
GOCO	Government-Owned, Contractor-Operated
IAW	In accordance with
ISSA	Inter-Service Support Agreement
JPO	Joint Petroleum Office
LOA	Length Overall
MBBLS	One Thousand Barrels
MCAS	Marine Corps Air Station
MGAL	One Thousand Gallons
MILCON	Military Construction
MILSCAP	Military Standard Contract Administration Procedures
MILSPETS	Military Standard Petroleum System
MIRR	Material Inspection and Receiving Report (DD Form 250 Series)
MPMS	Manual of Petroleum Measurement Standards

MRP	Maintenance and Repair Project
MSC	Military Sealift Command
NFPA	National Fire Protection Association
NPDES	National Pollutant Discharge Elimination System
NSN	National Stock Number
OICC	Office-in-Charge-of-Construction
OPA	Oil Pollution Act
OSC	On-Scene Coordinator
OSHA	Occupational Safety and Health Administration
PCO	Procuring Contracting Officer
PH	Pump House
PM	Preventive Maintenance
PMI	Preventive Maintenance Inspection
POL	Petroleum Oil and Lubrication
POS	Peacetime Operating Stock
PQA	Petroleum Quality Assurance
PWS	Performance Work Statement
QASP	Quality Assurance Surveillance Plan
QCP	Quality Control Plan
SCBA	Self Contained Breathing Apparatus
SDA	Static Dissipater Additive
SIOATH	Source Identification and Ordering Authorization
SOP	Standard Operating Procedure
SPCC	Spill Prevention Control and Countermeasure Plan
TSN	Transaction Sequence Number
UST	Underground Storage Tank
VCR	Video Cassette Recorder
VIN	Vehicle Identification Number

Appendix "D" **DEFINITIONS**

Allowable In-transit tolerance factor: Is 0.2% for cargos not requiring cleaning, gas-freeing, drop/strip; 0.3% for cargos requiring drop/strip; 0.5% for cargos requiring gas-freeing and cleaning: The amount of fuel which might be lost or gained under normal operating conditions while in transit. *Calculation:* Divide quantity gained or lost by the quantity shipped; multiply by 100 to convert the decimal figure to a percentage factor.

Allowable Storage tolerance factor of 0.25%: The amount of fuel which might be lost or gained under normal operating conditions during storage. *Calculation:* Divide quantity gained or lost for the month (variance between book and physical inventory) by the sum of the beginning inventory, receipts and gains through re-grade and additive injections; multiply by 100 for percentage factor.

Automotive Gasoline (MOGAS): A volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines. ASTM D-439 provides additional detailed chemical and physical characteristics of unleaded and leaded gasoline.

Aviation Gasoline (AVGAS): Gasoline based fuels used in piston driven aircraft. Specifications for these fuels are provided in ASTM D-910.

Barrel: 42 U.S. gallons.

Contracting Officer: Includes the Procurement Contracting Officer (PCO) and the Administrative Contracting Officer (ACO).

Correlation Testing: The testing of POL products (three times a year). A program that provides a means to crosscheck and monitor the accuracy of local test procedures.

Class C Laboratory: A facility with the capability of testing samples to determine specific gravity, flash point, color and appearance, including visible sediment and water.

Class B Laboratory: A facility with the capability of conducting all tests which a Class C Laboratory can perform as well as any additional testing required to evaluate samples for contamination; in particular, for controlling the re-injection of pipeline interface products, any characteristics susceptible to deterioration because of age, and any principle characteristics most likely to have been affected in the course of moving the product.

Class A Laboratory: A facility with the capability of conducting all tests which Class B and Class C Laboratories perform as well as additional testing required to obtain a complete specification inspection.

Diesel Fuel: Diesel fuels are used on compression ignition engines in which air enters the engine at atmospheric pressure or is forced in under higher pressure by a pump or blower. Diesel fuels are used to operate compression ignition engines in submarines, gas turbines, destroyer escorts, landing craft, stationary equipment and in other auxiliary units.

Types and Grades

F76, Fuel, Naval Distillate, MIL-F-16884, is suitable for use in compression ignition engines in submarines and shipboard operations at all temperatures above 10 degrees Fahrenheit.

DF-1, is a winter grade diesel fuel intended for use in high-speed automotive diesel engines and gas turbine engines other than aircraft, in areas in which ambient temperatures as low as -32 degrees Celsius may occur. This grade may be used for medium-speed stationary engine applications.

DF-2, is a regular-grade diesel fuel oil intended for use in all automotive high-speed/medium-speed engine applications and gas turbine engines other than aircraft.

Fuel Additives: Chemicals added to petroleum products to inhibit undesirable characteristics.

Fuel System Icing Inhibitor (FSII): This additive prevents airframe fuel system, engine filter and engine fuel control icing.

Jet Fuel: Jet fuels are used in aircraft turbine engines, ramjet engines and other turbine-powered equipment. Specifications for jet fuels are provided in MIL-DTL-5624 and MIL-DTL-83133.

Grade JP5 (NATO Code F-44), is a high flash point (140 degrees F) kerosene type fuel, which was originally developed for use by carrier based aircraft where a safer fuel other than JP4 was required for storage aboard the carrier. The vapor pressure of JP5 is normally zero and it is now the principal aircraft fuel used by the Navy ashore and afloat. JP5 may be used in ground-based turbine and diesel engines.

Grade JP8 (NATO Code F-34), is a kerosene fuel similar to commercial jet fuel, (COMJET) A-1, except JP8 contains fuel system icing inhibitor as well as other additives. It is also similar to JP5 with respect to most fuel properties except flash point (100 degrees F minimum) and freeze point. Due to its flash point, it cannot be used for shipboard operations.

COMJET A-1, is a relatively high flash point distillate of the kerosene type used predominately by commercial and civil aircraft. COMJET A-1 is procured under ASTM D-1655.

Lubrication Oils: Refined from petroleum crude or synthetically prepared compounds and used to lubricate (*i.e.*, reduce friction, between moving parts). As a result of the reduced friction, moving parts remain at a cooler temperature and wear less. Generally, chemicals are added to the basic oil during processing to achieve other desired qualities. Many oils in use have a viscosity rating; *i.e.* a numeric expression of the degree to which the oil resists flow under an applied force.

Types and Grades

Neat Fuel: Jet Fuel is “neat” when it contains no additives (*i.e.*, FSII, SDA and /or CI).

Other Maintenance and Repair: Maintenance and repair beyond that defined as preventive is other maintenance and repair. This includes unplanned repair or replacement of material or components that show abnormal wear or fail. This maintenance will be approved by the COR and is reimbursable under **CLIN 0002** (See **Section C-3.0, CLIN 0002**).

Preventive Maintenance: Preventive maintenance is a program of recurrent periodic or cyclic scheduled work designed to preserve and maintain equipment, apparatus or facilities in such condition that they may be effectively used for their intended purpose.

Throughput: Receipts plus shipments divided by two equals terminal throughput.

Appendix “E” REGULATIONS

The following is a brief list of the regulations referenced in Section C of the PWS and is not an all-inclusive listing. It is incumbent upon the Contractor to ensure full compliance with all Federal, State and Local laws and regulations.

Regulation	Title
2 CCR 3	Title 2, Division 3, Chapter 1, Article 5, paragraph 2395 Spill Containment for Transfer Operations
29 CFR	Title 29, Labor
33 CFR 154	Oil Pollution Regulations for Marine Transfer Facilities
40 CFR 112	Oil Pollution Prevention
40 CFR 122	Ballast Water and NPDES Permits
40 CFR 260-268	EPA Hazardous Ballast Handling and Disposal Program
49 CFR 194	DOT Onshore Pipeline Regulations
49 CFR 195	Transportation of Hazardous Liquids by Pipeline
49 CFR 199	Drug and Alcohol Testing
API MPMS	API Manual of Petroleum Measurement Standards (MPMS), Chapter 8, Section 1, Manual Sampling of Petroleum and Petroleum Products and Section 2, Automatic Sampling of Petroleum and Petroleum Products
South Carolina Code of Regulations	Title, all applicable
DoD 4140.25-M	DoD Management of Bulk Petroleum Products, Natural Gas and Coal
DoD 4150.7	DoD Pest Management Program
FAR 52.222-2	Payment for Overtime Premiums
FAR 52.244-2	Subcontracts (Cost Reimbursement and Letter Contracts)
FAR part 45, sub-part 45-5	Government Property, Management of Government Property in the Possession of Contractors
FAR Section 31	Contract Cost Principles and Procedures
MIL-STD-161	Military Standard Identification Methods for Bulk Petroleum Product Systems
MIL-HDBK 844 (AS)	All Applicable
National Fire Codes	NFPA National Fire Codes
National Association of Corrosion Engineer (NACE) Standards	Cathodic Protection Testing

APPENDIX "F"**FILE MANAGEMENT PLAN**
FOR ALL
ENVIRONMENTAL AND TRAINING RECORDS

The Contractor shall follow the file management plan as specified below for all environmental and training records. These files shall be made available for inspection by Government personnel, auditors, and regulators upon request.

SUPERFUND AMENDMENT REAUTHORIZATION ACT (SARA)

- Tier I/Tier II Emergency and Hazardous Chemical Inventory Reports (SERC, LEPC, Fire Dept.)
- Form R Toxic Chemical Release Inventory Report Form
- State Inspections/Investigations
- Aboveground Tank Inspection Records
- Underground Tank Inspection Records
- Pipeline Inspection Records
- Pressure Test Records
- Above and Underground Storage Annual Throughput Report
- Notice of Violations

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

- RCRA Permit
- State Inspections/Investigations
- Hazardous Waste Manifests
- Non-Hazardous Waste Manifests
- Biennial Report
- Waste Profile Sheets
- Landfill Records
- Hazardous Waste Minimization Plan
- Pollution Prevention Plan
- Notice of Violations
- Spill Reports

LABORATORY ANALYSES REPORTS

- Tank Bottom Water
- Groundwater
- Purge Water from Groundwater Monitoring Wells
- Surface Water
- Paint Chips
- Sandblasting Waste
- Contaminated Soil
- Sludge
- Spent Solvents from Laboratory Operations
- Cleanup Materials, i.e., pillows, sorbents, socks, etc.
- Filters

PLAN REVIEWS BY DFSP PERSONNEL

- Spill Prevention Control and Countermeasure Plan (SPCC) - Semi-annually
- Emergency Action Plan (EAP) - Annually
- Facility Response Plan (FRP) - Quarterly
- Lock-Out/Tag-Out Plan (LO-TO) - Annually
- Confined Space Plan (CSP) - Annually
- Oil Pollution Prevention Operations Manual (OPPOM) - Annually
- Respirator Protection Plan – Annually
- Pest Management Plan - Annually

TRAINING REQUIREMENTS

- Safety Training
- Hazard Communication Training
- Confined Space Entry Training
- Personal Protective Equipment (Respiratory Protection) Training
- Hazardous Waste Operations and Emergency Response Training (HAZWOPER)
- Safe Transportation of Hazardous Materials Training
- Environmental Protection Training
- Facility Spill Coordinator (FSC) and On-Scene Coordinator Training (OSC)
- Acting Terminal Fire Chief Training
- Facility Response Plan (FRP) Training

CLEAN AIR ACT (CAA)

- State Air Emission Permit
- State Inspections/Investigations
- State Point Source Data Report
- Air Emission Reports
- Notice of Violations

FEDERAL INSECTICIDE, FUNGICIDE, RODENTICIDE ACT (FIFRA)

- Insecticide, Pesticide, Rodenticide Reports (see Clause C-2.4.1.9)
- State Inspections/Investigations
- Notice of Violations

CLEAN WATER ACT (CWA)

- State NPDES Permit
- POTW Discharge Permit
- State Inspections/Investigations
- NPDES Discharge Monitoring Reports
- POTW Discharge Monitoring Reports
- Notice of Violations
- Oil/Water Separator Cleaning Records
- Documentation for Monitoring Wells
- Dike Drainage Log

OIL POLLUTION ACT OF 1990 (OPA90)

- Facility Response Plan Approval Letters
- Qualified Individual Notification Drills - Quarterly
- Spill Management Team Tabletop Exercises - Yearly
- Unannounced Exercises
- OSRO Equipment Deployment Exercises - Yearly
- Facility Owned Equipment Deployment Exercises
- Spill Cooperative Meeting Minutes, etc.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

- Assessment Reports
- Remediation Reports
- Monitoring Reports

ENVIRONMENTAL AUDITS

- DESC
- DLA

CONSTRUCTION PERMITS (create a new file for each new project)

- Oil/Water Separator Project
- Tank Reconstruction Project

CHARLESTON, SC

MARCH 23, 2003

WAGE DETERMINATION NO: 94-2473 REV (26) AREA: SC,CHARLESTON

WAGE DETERMINATION NO: 94-2473 REV (26) AREA: SC,CHARLESTON

REGISTER OF WAGE DETERMINATIONS UNDER

U.S. DEPARTMENT OF LABOR

FOR OFFICIAL USE ONLY BY FEDERAL AGENCIES PARTICIPATING IN MOU WITH DOL

WASHINGTON D.C. 20210

William W.Gross
Director

Division of
Wage Determinations

Wage Determination No.: 1994-2473

Revision No.: 26

Date Of Last Revision: 05/29/2002

State: South Carolina

Area: South Carolina Counties of Beaufort, Berkeley, Charleston, Colleton,
Dorchester,
Georgetown, Williamsburg

****Fringe Benefits Required Follow the Occupational Listing****

OCCUPATION TITLE

MINIMUM WAGE RATE

Administrative Support and Clerical Occupations

Accounting Clerk I	9.22
Accounting Clerk II	10.47
Accounting Clerk III	12.46
Accounting Clerk IV	13.97
Court Reporter	12.93
Dispatcher, Motor Vehicle	14.17
Document Preparation Clerk	9.69
Duplicating Machine Operator	9.81
Film/Tape Librarian	11.01
General Clerk I	8.20
General Clerk II	9.21
General Clerk III	10.04
General Clerk IV	11.30
Housing Referral Assistant	17.42
Key Entry Operator I	9.30
Key Entry Operator II	10.57
Messenger (Courier)	7.76
Order Clerk I	8.89
Order Clerk II	11.12
Personnel Assistant (Employment) I	8.83
Personnel Assistant (Employment) II	9.93
Personnel Assistant (Employment) III	12.46
Personnel Assistant (Employment) IV	14.01
Production Control Clerk	13.97
Rental Clerk	10.02
Scheduler, Maintenance	12.18
Secretary I	12.18
Secretary II	13.68
Secretary III	17.42
Secretary IV	17.78
Secretary V	19.54
Service Order Dispatcher	12.59
Stenographer I	11.98
Stenographer II	12.38
Supply Technician	13.76
Survey Worker (Interviewer)	12.39

Switchboard Operator-Receptionist	8.81
Test Examiner	13.68
Test Proctor	13.68
Travel Clerk I	9.15
Travel Clerk II	9.75
Travel Clerk III	10.43
Word Processor I	8.43
Word Processor II	10.52
Word Processor III	11.76
Automatic Data Processing Occupations	
Computer Data Librarian	8.77
Computer Operator I	8.80
Computer Operator II	11.17
Computer Operator III	14.49
Computer Operator IV	16.11
Computer Operator V	17.83
Computer Programmer I (1)	14.88
Computer Programmer II (1)	18.41
Computer Programmer III (1)	23.48
Computer Programmer IV (1)	25.66
Computer Systems Analyst I (1)	23.30
Computer Systems Analyst II (1)	27.62
Computer Systems Analyst III (1)	27.62
Peripheral Equipment Operator	10.65
Automotive Service Occupations	
Automotive Body Repairer, Fiberglass	16.13
Automotive Glass Installer	14.51
Automotive Worker	15.71
Electrician, Automotive	15.24
Mobile Equipment Servicer	13.07
Motor Equipment Metal Mechanic	17.27
Motor Equipment Metal Worker	15.71
Motor Vehicle Mechanic	17.27
Motor Vehicle Mechanic Helper	12.37
Motor Vehicle Upholstery Worker	14.94
Motor Vehicle Wrecker	15.71
Painter, Automotive	15.24
Radiator Repair Specialist	15.71
Tire Repairer	11.58
Transmission Repair Specialist	17.27
Food Preparation and Service Occupations	
Baker	8.69
Cook I	7.91
Cook II	9.12
Dishwasher	6.66
Food Service Worker	7.61
Meat Cutter	10.14
Waiter/Waitress	6.33
Furniture Maintenance and Repair Occupations	
Electrostatic Spray Painter	13.96
Furniture Handler	10.72
Furniture Refinisher	13.97
Furniture Refinisher Helper	11.34
Furniture Repairer, Minor	12.66
Upholsterer	13.97
General Services and Support Occupations	
Cleaner, Vehicles	7.31

Elevator Operator	6.67
Gardener	9.85
House Keeping Aid I	6.61
House Keeping Aid II	7.96
Janitor	7.55
Laborer, Grounds Maintenance	8.22
Maid or Houseman	6.61
Pest Controller	10.38
Refuse Collector	8.02
Tractor Operator	9.28
Window Cleaner	8.22
Health Occupations	
Dental Assistant	12.29
Emergency Medical Technician (EMT)/Paramedic/Ambulance Driver	11.36
Licensed Practical Nurse I	11.58
Licensed Practical Nurse II	12.99
Licensed Practical Nurse III	14.53
Medical Assistant	9.72
Medical Laboratory Technician	14.15
Medical Record Clerk	11.32
Medical Record Technician	13.47
Nursing Assistant I	7.05
Nursing Assistant II	7.24
Nursing Assistant III	7.91
Nursing Assistant IV	8.86
Pharmacy Technician	12.11
Phlebotomist	11.62
Registered Nurse I	16.25
Registered Nurse II	19.88
Registered Nurse II, Specialist	19.88
Registered Nurse III	24.04
Registered Nurse III, Anesthetist	24.04
Registered Nurse IV	28.83
Information and Arts Occupations	
Audiovisual Librarian	14.52
Exhibits Specialist I	14.17
Exhibits Specialist II	18.00
Exhibits Specialist III	21.45
Illustrator I	14.17
Illustrator II	18.00
Illustrator III	21.45
Librarian	18.16
Library Technician	12.39
Photographer I	11.52
Photographer II	12.88
Photographer III	16.36
Photographer IV	19.50
Photographer V	23.60
Laundry, Dry Cleaning, Pressing and Related Occupations	
Assembler	7.16
Counter Attendant	7.16
Dry Cleaner	7.46
Finisher, Flatwork, Machine	7.16
Presser, Hand	7.16
Presser, Machine, Drycleaning	7.16
Presser, Machine, Shirts	7.16
Presser, Machine, Wearing Apparel, Laundry	7.16

Sewing Machine Operator	8.66
Tailor	9.50
Washer, Machine	7.44
Machine Tool Operation and Repair Occupations	
Machine-Tool Operator (Toolroom)	16.05
Tool and Die Maker	19.17
Material Handling and Packing Occupations	
Forklift Operator	11.32
Fuel Distribution System Operator	12.70
Material Coordinator	12.73
Material Expediter	12.73
Material Handling Laborer	9.53
Order Filler	10.97
Production Line Worker (Food Processing)	10.82
Shipping Packer	10.78
Shipping/Receiving Clerk	11.78
Stock Clerk (Shelf Stocker; Store Worker II)	11.98
Store Worker I	9.54
Tools and Parts Attendant	10.76
Warehouse Specialist	11.88
Mechanics and Maintenance and Repair Occupations	
Aircraft Mechanic	15.06
Aircraft Mechanic Helper	11.33
Aircraft Quality Control Inspector	15.28
Aircraft Servicer	12.65
Aircraft Worker	13.30
Appliance Mechanic	15.08
Bicycle Repairer	11.58
Cable Splicer	17.44
Carpenter, Maintenance	13.96
Carpet Layer	13.30
Electrician, Maintenance	16.81
Electronics Technician, Maintenance I	15.52
Electronics Technician, Maintenance II	17.67
Electronics Technician, Maintenance III	20.58
Fabric Worker	12.65
Fire Alarm System Mechanic	14.69
Fire Extinguisher Repairer	12.00
Fuel Distribution System Mechanic	14.69
General Maintenance Worker	12.58
Heating, Refrigeration and Air Conditioning Mechanic	14.90
Heavy Equipment Mechanic	16.81
Heavy Equipment Operator	16.81
Instrument Mechanic	19.34
Laborer	8.17
Locksmith	13.97
Machinery Maintenance Mechanic	18.72
Machinist, Maintenance	14.62
Maintenance Trades Helper	11.33
Millwright	16.84
Office Appliance Repairer	14.58
Painter, Aircraft	15.24
Painter, Maintenance	13.96
Pipefitter, Maintenance	14.62
Plumber, Maintenance	13.97
Pneudraulic Systems Mechanic	14.69
Rigger	14.62

Scale Mechanic	13.30
Sheet-Metal Worker, Maintenance	14.62
Small Engine Mechanic	13.30
Telecommunication Mechanic I	14.62
Telecommunication Mechanic II	15.28
Telephone Lineman	14.69
Welder, Combination, Maintenance	14.62
Well Driller	14.69
Woodcraft Worker	14.62
Woodworker	12.64
Miscellaneous Occupations	
Animal Caretaker	6.90
Carnival Equipment Operator	8.96
Carnival Equipment Repairer	9.51
Carnival Worker	7.29
Cashier	6.29
Desk Clerk	7.83
Embalmer	18.84
Lifeguard	8.23
Mortician	18.84
Park Attendant (Aide)	9.81
Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	7.15
Recreation Specialist	13.40
Recycling Worker	9.70
Sales Clerk	8.23
School Crossing Guard (Crosswalk Attendant)	6.07
Sport Official	7.15
Survey Party Chief (Chief of Party)	9.31
Surveying Aide	7.76
Surveying Technician (Instr. Person/Surveyor Asst./Instr.)	8.46
Swimming Pool Operator	9.26
Vending Machine Attendant	6.48
Vending Machine Repairer	8.51
Vending Machine Repairer Helper	7.00
Personal Needs Occupations	
Child Care Attendant	6.63
Child Care Center Clerk	8.27
Chore Aid	6.86
Homemaker	9.36
Plant and System Operation Occupations	
Boiler Tender	14.69
Sewage Plant Operator	14.89
Stationary Engineer	14.69
Ventilation Equipment Tender	11.48
Water Treatment Plant Operator	14.82
Protective Service Occupations	
Alarm Monitor	10.51
Corrections Officer	12.45
Court Security Officer	12.45
Detention Officer	12.45
Firefighter	11.87
Guard I	7.53
Guard II	11.23
Police Officer	14.94
Stevedoring/Longshoremen Occupations	
Blocker and Bracer	12.73
Hatch Tender	13.31

Line Handler	13.31
Stevedore I	10.99
Stevedore II	13.34
Technical Occupations	
Air Traffic Control Specialist, Center (2)	28.21
Air Traffic Control Specialist, Station (2)	19.46
Air Traffic Control Specialist, Terminal (2)	21.43
Archeological Technician I	16.19
Archeological Technician II	18.14
Archeological Technician III	22.45
Cartographic Technician	23.76
Civil Engineering Technician	18.50
Computer Based Training (CBT) Specialist/ Instructor	21.45
Drafter I	14.38
Drafter II	17.33
Drafter III	18.04
Drafter IV	22.94
Engineering Technician I	12.40
Engineering Technician II	13.92
Engineering Technician III	17.35
Engineering Technician IV	21.65
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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$2.15 an hour or \$86.00 a week or \$372.67 a month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3

weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span

of continuous service with the present contractor or successor, wherever employed, and with

the predecessor contractors in the performance of similar work at the same Federal

facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King

Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus

Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for

any of the named holidays another day off with pay in accordance with a plan communicated

to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as

numbered):

1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)

2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is

entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the

rate of basic pay plus a night pay differential amounting to 10 percent of the rate of

basic pay.

3) WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular

tour of duty, you will earn a night differential and receive an additional 10% of basic pay

for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a

week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of

basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work

which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is

considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed

in a position that represents a high degree of hazard when working with or in close

proximity to ordinance, explosives, and incendiary materials. This includes work such as

screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and

pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-

house activities involving propellants or explosives. Demilitarization, modification,

renovation, demolition, and maintenance operations on sensitive ordnance, explosives and

incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents

a low degree of hazard when working with, or in close proximity to ordnance, (or employees

possibly adjacent to) explosives and incendiary materials which involves potential injury

such as laceration of hands, face, or arms of the employee engaged in the operation,

irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent

work area or equipment being used. All operations involving, unloading, storage, and

hauling of ordnance, explosive, and incendiary ordnance material other than small arms

ammunition. These differentials are only applicable to work that has been specifically

designated by the agency for ordnance, explosives, and incendiary material differential pay.

** UNIFORM ALLOWANCE **

If employees are required to wear uniforms in the performance of this contract (either by

the terms of the Government contract, by the employer, by the state or local law, etc.),

the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such

uniforms is an expense that may not be borne by an employee where such cost reduces the

hourly rate below that required by the wage determination. The Department of Labor will

accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate

number of uniforms without cost or to reimburse employees for the actual cost of the

uniforms. In addition, where uniform cleaning and maintenance is made the responsibility

of the employee, all contractors and subcontractors subject to this wage determination

shall (in the absence of a bona fide collective bargaining agreement providing for a

different amount, or the furnishing of contrary affirmative proof as to the actual cost),

reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or

\$.67 cents per day). However, in those instances where the uniforms furnished are made of

"wash and wear" materials, may be routinely washed and dried with other personal garments,

and do not require any special treatment such as dry cleaning, daily washing, or commercial

laundering in order to meet the cleanliness or appearance standards set by the terms of the

Government contract, by the contractor, by law, or by the nature of the work, there is no

requirement that employees be reimbursed for uniform maintenance costs.

** NOTES APPLYING TO THIS WAGE DETERMINATION **

Source of Occupational Title and Descriptions:

The duties of employees under job titles listed are those described in the "Service

Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the

Third Supplement, dated March 1997, unless otherwise indicated. This publication may be

obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444

(SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not

listed herein and which is to be employed under the contract (i.e., the work to be

performed is not performed by any classification listed in the wage determination), be

classified by the contractor so as to provide a reasonable relationship (i.e., appropriate

level of skill comparison) between such unlisted classifications and the classifications

listed in the wage determination. Such conformed classes of employees shall be paid the

monetary wages and furnished the fringe benefits as are determined. Such conforming

process shall be initiated by the contractor prior to the performance of contract work by

such unlisted class(es) of employees. The conformed classification, wage rate, and/or

fringe benefits shall be retroactive to the commencement date of the contract. {See Section

4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF

1444 should be prepared for each wage determination to which a class(es) is to be

conformed.

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s)

and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed

classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including

information regarding the agreement or disagreement of the authorized representative of the

employees involved, or where there is no authorized representative, the employees

themselves. This report should be submitted to the contracting officer no later than 30

days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the

action, together with the agency's recommendations and pertinent information including the

position of the contractor and the employees, to the Wage and Hour Division, Employment

Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of

Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves

the action via transmittal to the agency contracting officer, or notifies the contracting

officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations"

(the Directory) should be used to compare job definitions to insure that duties requested

are not performed by a classification already listed in the wage determination. Remember,

it is not the job title, but the required tasks that determine whether a class is included

in an established wage determination. Conformances may not be used to artificially split,

combine, or subdivide classifications listed in the wage determination.

&&&&&&&&&&

OFFEROR SUBMISSION PACKAGE

SOLICITATION: SP0600-03-R-0078

PROGRAM: 6.1

PERFORMANCE PERIOD: MAY 1, 2004 THROUGH MAY 1, 2009

TO BE TIMELY, OFFERS MUST BE RECEIVED AT THE
DEFENSE ENERGY SUPPORT CENTER
BY
MAY 12, 2003 @ 3:00PM LOCAL TIME

INSTRUCTIONS:

1. Two (2) copies of this Offeror Submission Package must be returned to this office as your offer. All documents to be completed and returned are contained in this Offeror Submission Package. See Clause L201 for submission requirements.
2. Be sure to check your offer prices in Section B for accuracy and legibility prior to submission, initialing any changes. Sign and date the Standard Form 33 (SF33) in ink.
3. By submission of this package, you are stating that ALL terms and conditions of the entire solicitation are accepted and apply to your offer unless clearly stated on a separate sheet of paper.

SOLICITATION, OFFER AND AWARD1. THIS CONTRACT IS A RATED ORDER
UNDER DPAS (15 CFR 700)

RATING

PAGE

OF PAGES

1

13

2. CONTRACT NUMBER

3. SOLICITATION NUMBER

SP0600-03-R-0078

4. TYPE OF SOLICITATION

☐ SEALED BID (IFB)☒ NEGOTIATED (RFP)

5. DATE ISSUED

April 11, 2003

6. REQUISITION/PURCHASE NUMBER

SP0600-03-0500

7. ISSUED BY

CODE

SCO600

Defense Energy Support Center
8725 John J. Kingman Road, Suite 4950
Fort Belvoir, VA 22060-6222

PP:6.1

8. ADDRESS OFFER TO (If other than Item 7)

ATTN: BID CUSTODIAN, DESC-CPC, RM. 3815
Defense Energy Support Center, 8725 John J. Kingman Road, Suite
4950, Fort Belvoir, VA 22060-6222 - Verification: 703-767-7367

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and

1 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if

handcarried, in the depository located in

DESC-CPC, Room 3815

until

3:00

(Hour)

May 12, 2003

(Date)

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR
INFORMATION
CALL:

A. NAME

MONICA T. FASS

B. TELEPHONE (NO COLLECT CALLS)

AREA CODE
(703)NUMBER
767-9326

EXT.

C. E-MAIL ADDRESS

Monica.Fass@dla.mil

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<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICES/COSTS	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING		PART IV - REPRESENTATIONS AND INSTRUCTIONS			
	E	INSPECTION AND ACCEPTANCE		<input checked="" type="checkbox"/>	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	5
	F	DELIVERIES OR PERFORMANCE		<input checked="" type="checkbox"/>	L	INSTR., CONDS., AND NOTICES TO OFFERORS	13
<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA	3		M	EVALUATION FACTORS FOR AWARD	
	H	SPECIAL CONTRACT REQUIREMENTS					

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within

180 calendar days ~~or 180 calendar days unless a different~~

period is inserted by the offeror from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)	<input checked="" type="checkbox"/> 10 CALENDAR DAYS %	<input type="checkbox"/> 20 CALENDAR DAYS %	<input type="checkbox"/> 30 CALENDAR DAYS %	<input type="checkbox"/> CALENDAR DAYS %
14. ACKNOWLEDGMENT OF AMEND- MENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFER- OR	CODE	FACILIT	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or Print)
15B. TELEPHONE NUMBER	15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.		17. SIGNATURE
AREA CODE	NUMBER	EXT.	18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)) <input checked="" type="checkbox"/> 41 U.S.C. 253(c) ()	23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM
24. ADMINISTERED BY (If other than Item 7)	25. PAYMENT WILL BE MADE BY	CODE
26. NAME OF CONTRACTING OFFICER (Type or print)	27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	28. AWARD DATE

IMPORTANT - Award will be made on this form, or on Standard Form 26, or by other authorized official written notice.

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is unusableSTANDARD FORM 33 (EG) (REV. 9-97)
Prescribed by GSA - FAR (48 CFR) 53.214(c)

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SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS**B33.01 SERVICES TO BE FURNISHED AND PRICES (MULTIYEAR) (GOCO) (DESC JUL 1993)**

(a) The services to be furnished during the period specified herein and the unit prices are as follows:

LINE ITEM 0001: NONPERSONAL SERVICES: (FIRM-FIXED PRICE)

The Contractor shall operate, maintain, and protect the Government-owned bulk petroleum terminal at DFSP Charleston, SC in accordance with Section C, and all other terms and conditions set forth herein for the period 1200 hours, May 1, 2004, through 1200 hours, May 1, 2009.

The offered price per month is _____
(PRORATED FOR
PART MONTHS)

(b) The following line items are cost reimbursable line items under which the Contractor shall furnish nonpersonal services and/or supplies and materials in accordance with Section C-5.31 and all other applicable terms and conditions set forth herein. The Contractor will be reimbursed under these line items for services actually performed as approved by the Contracting Officer or COR. Segment C-5.31 and Section G provide additional details concerning reimbursement under the line items listed below. The "NOT TO EXCEED" amounts shown below are for Government administrative fund obligation and represent the Government's best estimate of the cost reimbursable supplies, services, and overtime for each contract year. All G&A and profit for the following line items must be included in Line Item 0001.

LINE ITEM 0002:	MAINTENANCE AND REPAIR (TASK ORDER REQUIRED)	NOT TO EXCEED <u>\$200,000.00</u>
LINE ITEM 0002A:	MAINTENANCE AND REPAIR (TASK ORDER NOT REQUIRED)	NOT TO EXCEED \$ <u>50,000.00</u>
LINE ITEM 0003:	EMERGENCY SERVICES	NOT TO EXCEED <u>\$150,000.00</u>
LINE ITEM 0004:	OVERTIME	NOT TO EXCEED \$ <u>5,000.00</u>
LINE ITEM 0005:	EMERGENCY SPILL RESPONSE SERVICES	NOT TO EXCEED <u>\$200,000.00</u>

(DESC 52.207-9F90)

*Please use the following format to provide a breakdown of your price.

CATEGORY	PRICE/MONTH	NOTES
Labor	\$	(e.g., includes all PT&I associated with direct labor costs)
Equipment	\$	(e.g., includes all vehicle maintenance, insurance, and depreciation using straight line method over ____ yrs)
Supplies	\$	
Other (explain in Notes)	\$	
G&A CLIN 0001	\$	
G&A CLIN 0002/0002AA	\$	
G&A CLIN 0003	\$	
G&A CLIN 0004	\$	
G&A CLIN 0005	\$	
Profit CLIN 0001	\$	
Profit CLIN 0002/0002AA	\$	
Profit CLIN 0003	\$	
Profit CLIN 0004	\$	
Profit CLIN 0005	\$	
Total Price	\$	

SECTION G - CONTRACT ADMINISTRATION DATA**G9.06 ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DESC DEC 1999)**

Remittances shall be mailed only at the Government's option or where an exception to payment by Electronic Funds Transfer (EFT) applies. (See the PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION or the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION clause.)

Offeror shall indicate below the complete mailing address (including the nine-digit zip code) to which remittances should be mailed if such address is other than that shown in Block 15a (Standard Form (SF) 33) for noncommercial items or Block 17a (SF 1449) for commercial items. In addition, if offeror did not incorporate its nine-digit zip code in the address shown in Block 15a of the SF 33 or in Block 17a of the SF 1449, the offeror shall enter it below:

(a) Payee Name (Contractor): _____
(DO NOT EXCEED 25 CHARACTERS)

(b) Check Remittance Address:

(DO NOT EXCEED 30 CHARACTERS PER LINE)

(c) Narrative Information (special instructions).

(DO NOT EXCEED 153 CHARACTERS)

(DESC 52.232-9F55)

G9.09 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION (MAY 1999)**(a) METHOD OF PAYMENT.**

(1) All payments by the Government under this contract, shall be made electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) **CONTRACTOR'S EFT INFORMATION.** The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) **MECHANISMS FOR EFT PAYMENT.** The Government shall make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) **SUSPENSION OF PAYMENT.** If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and

any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) **CONTRACTOR EFT ARRANGEMENTS.** The Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) **LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS.**

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously direct funds; or
- (ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) of this clause shall apply.

(g) **EFT AND PROMPT PAYMENT.** A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) **EFT AND ASSIGNMENT OF CLAIMS.** If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require a condition of any such assignment that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect within the meaning of paragraph (d) of this clause.

(i) **LIABILITY FOR CHANGE OF EFT INFORMATION BY FINANCIAL AGENT.** The Government is not liable for errors resulting from changes in EFT information made by the Contractor's financial agent.

(j) **PAYMENT INFORMATION.** The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(FAR 52.232-33)

G9.14 SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER (MAY 1999)

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer (EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (b)(1) and (j) of the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION clause.

- (1) The solicitation number (or other procurement identification number).
- (2) The offeror's name and remittance address, as stated in the offer.
- (3) The signature (manual or electric, as appropriate), title, and telephone number of the offeror's official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the offeror's financial agent.
- (5) The offeror's account number and the type of account (checking, savings, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the offeror's financial agent.
- (7) If applicable, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the offeror's financial agent is not directly on-line to the Fedwire Transfer System and, therefore, not the receiver of the wire transfer payment.

(FAR 52.232-38)

SECTION I – CONTRACT CLAUSES

THIS CLAUSE DOES NOT APPLY TO FOREIGN VENDORS PERFORMING OUTSIDE THE UNITED STATES.

11.07 REQUIRED CENTRAL CONTRACTOR REGISTRATION (NOV 2001)(a) **DEFINITIONS.** As used in this clause--

(1) **Central Contractor Registration (CCR) database** means the primary DoD repository for Contractor information required for the conduct of business with DoD.

(2) **Data Universal Numbering Systems (DUNS) number** means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) **Data Universal Numbering System + 4 (DUNS+4) number** means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) **Registered in the CCR database** means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) ***Lack of registration in the CCR database will make an offeror ineligible for award.***

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) ***The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.***

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423 or via the Internet at <http://www.ccr.gov>.

(DFARS 252.204-7004)

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS**K1.01-5 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)**

The offeror represents that--

(a) It--

☐ has☐ has not--

participated in a previous contract or subcontract subject to the EQUAL OPPORTUNITY clause of this solicitation;

(b) It--

☐ has☐ has not--

filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(FAR 52.222-22)

K1.01-6 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

THE FAR REPRESENTATION IN THE FOLLOWING PARAGRAPH SHALL BE COMPLETED BY EACH OFFEROR WHOSE OFFER IS \$50,000 OR MORE AND WHO HAS 50 OR MORE EMPLOYEES.

This representation--

☐ DOES APPLY.

☐ DOES NOT APPLY.

The offeror represents that--

(a) It--

☐ has developed and has on file

☐ has not developed and does not have on file--

at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

(b) It--

☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(FAR 52.222-25)

K1.01-11 SMALL BUSINESS PROGRAM REPRESENTATIONS (ALTS I/II) (OCT 2000/OCT 2000/OCT 2000)

(a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 493190.

(2) The small business size standard is \$18.5 million.

(3) The small business size standard for a concern that submits an offer in its own name, other than on a construction or service contract, but that proposes to furnish a product that it did not itself manufacture, is 500 employees.

(b) **REPRESENTATIONS.**

(1) The offeror represents as part of its offer that it--

☐ is,

☐ is not

a small business concern.

(2) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**

The offeror represents, for general statistical purposes, that it--

☐ is,

☐ is not

a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**

The offeror represents as part of its offer that it--

☐ is,

☐ is not

a women-owned small business concern.

(4) **(Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)**

The offeror represents, as part of its offer, that it--

☐ is

☐ is not

a veteran-owned small business concern.

(5) **(Complete only if offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.)** The offeror represents, as part of its offer, that it--

☐ is

☐ is not

a service-disabled veteran-owned small business concern.

(6) (Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.)

The offeror represents, as part of its offer, that--

(i) It--

☐ is

☐ is not

a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It--

☐ is

☐ is not

a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in subdivision (b)(4)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. **The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:**

_____	_____
_____	_____
_____	_____
_____	_____

Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) (Complete if the offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.) The offeror shall check the category in which its ownership falls:

☐ Black American.

☐ Hispanic American.

☐ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

☐ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

☐ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

☐ Individual/concern, other than one of the preceding.

(c) DEFINITIONS. As used in this provision--

(1) Service-disabled veteran-owned small business concern means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) **Service-disabled veteran** means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service connected, as defined in 38 U.S.C. 101(16).

(3) **Small business concern** means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

(4) **Veteran-owned small business concern** means a small business concern—

(i) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(ii) The management and daily business operations of which are controlled by one or more veterans.

(5) **Women-owned small business concern** means a small business concern—

(i) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(d) **NOTICE.**

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

(i) Be punished by imposition of a fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(FAR 52.219-1/Alts I/II)

K1.06 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 1999)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "**DUNS**" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at **1-800-333-0505**. The offeror should be prepared to provide the following information:

- (1) Company name;
- (2) Company address;
- (3) Company telephone number;
- (4) Line of business;
- (5) Chief executive officer/key manager;
- (6) Date the company was started;
- (7) Number of people employed by the company; and
- (8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an email to Dun and Bradstreet at globalinfo@mail.dnb.com.

(FAR 52.204-6)

K15 RELEASE OF UNIT PRICES (DESC OCT 2002)

The Defense Energy Support Center (DESC) will continue to release unit prices of successful offerors after the contract award pursuant to 10 U.S.C. 2305(g)(2), FAR 15.606(d)(2) and 32 CFR 286h-3. Unit prices are the bottom-line price per unit of product and may include the total contract price. They do not include any breakout of costs, such as transportation or overhead, and do not disclose the offeror's anticipated profit or any pricing factors.

(DESC 52.224-9F25)

K15.03 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

_____ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(FAR 52.203-2)

K33.01 AUTHORIZED NEGOTIATORS (DESC JAN 1998)

The first page of the offer must show names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate with the Government on the offeror's behalf in connection with this solicitation. The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

(DESC 52.215-9F28)

K85 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) **DEFINITIONS.** As used in this provision--

(1) **Government of a terrorist country** includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) **Terrorist country** means a country determined by the Secretary of State, under Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) **Significant interest**, as used in this provision means--

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) **PROHIBITION ON AWARD.** In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) **DISCLOSURE.**

If the government of a terrorist country has a significant interest in the offeror or a subsidiary of the offeror, the offeror shall disclose such interest in an attachment to its offer. If the offeror is a subsidiary, it shall also disclose any significant interest each government has in any firm that owns or controls the subsidiary. The disclosure shall include—

- (1) Identification of each government holding a significant interest; and
- (2) A description of the significant interest held by each Government.

(DFARS 252.209-7001)

K88 TAXPAYER IDENTIFICATION (OCT 1998)**(a) DEFINITIONS.**

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) TAXPAYER IDENTIFICATION NUMBER (TIN).

☐ TIN: _____.

☐ TIN has been applied for.

☐ TIN is not required because--

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(e) TYPE OF ORGANIZATION.

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ International organization per 26 CFR 1.6049-4;

☐ Other _____.

(f) COMMON PARENT.

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

☐ Name and TIN of common parent:

Name: _____

TIN: _____

(FAR 52.204-3)

K94 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (APR 2001)

(a) (1) The offeror certifies, to the best of its knowledge and belief, that--

(i) The offeror and/or any of its Principals--

(A) ☐ are,

☐ are not

presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any

Federal agency;

[This paragraph (B) language is stayed indefinitely. Please use paragraph (D) below.]

(B) ☐ have,

☐ have not

within the three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

[This paragraph (C) language is stayed indefinitely. Please use paragraph (E) below.]

- (C) ☐ are,
☐ are not

presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

- (D) ☐ have,
☐ have not

within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

- (E) ☐ are,
☐ are not

presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(D) of this provision.

[This subparagraph (a)(1)(ii) is stayed indefinitely.]

- (ii) (A) The offeror, aside from the offenses enumerated in subdivisions (a)(1)(i)(A), (B), and (C) of this provision—
☐ has,
☐ has not

within the past three-years, relative to tax, labor and employment, environmental, antitrust, or consumer protection laws—

- (a) Been convicted of a Federal or State felony (or has any Federal or State felony indictments currently pending against them); or
 (b) Had a Federal court judgment in a civil case brought by the United States rendered against them; or
 (c) Had an adverse decision by a Federal administrative law judge, board, or commission indicating a willful violation of law.

(B) If the offeror has responded affirmatively, the offeror shall provide additional information if requested by the Contracting Officer; and

- (iii) The offeror—

- ☐ has,
☐ has not

within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) **Principals**, for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES, AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the offeror's responsibility. Failure of the offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(FAR 52.209-5)

K96 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989 --

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(FAR 52.203-11)

K99 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that—

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13106), the owner will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:

[Check each block that is applicable.]

☐ (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

☐ (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

☐ (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with the Environmental Protection Agency (EPA);

☐ (iv) The facility does not fall within Standard Industrial Classification (SIC) code major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

[] (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(FAR 52.223-13)

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERS OR QUOTERS

L201 INSTRUCTIONS TO OFFERORS (GOCO) (DESC MAR 2002)

Offerors shall submit an original and one copy of their Offeror Submission Package and an original and two copies of their Technical Data and Past Performance submissions.

(a) **OFFEROR SUBMISSION PACKAGE.** Complete all required representations and certifications, and provide a proposed price in the SERVICES TO BE FURNISHED AND PRICES clause. On an attached page, the offeror shall break down the offered price into labor, equipment, supplies, G&A and profit (per line item), etc. All G&A and profit for Line Items 0002, 0002AA, 0003, 0004, and 0005 must be included in the monthly price for Line Item 0001.

(b) **TECHNICAL DATA.**

(1) Resumes for the Corporate Fuels Executive, the Terminal Superintendent, and the Assistant Terminal Superintendent (as applicable). This requirement is not waived for incumbent Contractor employees. Résumés must clearly demonstrate that the nominee meets the qualifications stated in the Performance Work Statement (PWS). If these proposed employees do not meet the minimum qualifications identified in the PWS, the offer may be rejected as unacceptable

(2) Number of proposed employees identified by wage determination and job classification. If employees performing multiple but similar job functions fall into one job classification, the offeror shall identify how many will be performing which job functions (e.g., 15 Fuel Distribution System Operators broken down into 10 Terminal Operators, 3 Terminal Operation Control Center Operators, and 2 Pipeline Riders).

(3) Type and number of proposed vehicles required in the PWS.

(4) Contract Compliance Plan.

(c) **PAST PERFORMANCE.** The offeror shall provide the following information for the three most recent contracts and subcontracts held, to include those in progress, that are related to the proposed contract.

(1) Name and address of contracting activity;

(2) Points of contact (names of Contracting Officer, Contracting Officer's Representative, Administrative Contracting Officer, program manager, etc., as applicable) and phone numbers of activity personnel;

(3) Contract number;

(4) Contract type and dollar value;

(5) Brief description of the work; and

(6) Information on any significant problems encountered and corrective actions taken.

(DESC 52.215-9F30)